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112TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
112–397

AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT OF 2012

R E P O R T

OF THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

TOGETHER WITH

DISSENTING VIEWS

[TO ACCOMPANY H.R. 7]

FEBRUARY 13, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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FEBRUARY 13, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MICA, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 7]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 7) to authorize funds for Federal-aid highway, public transportation, and highway and motor carrier safety programs, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Energy and Infrastructure Jobs Act of 2012".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. General definitions.
Sec. 3. Effective date.

TITLE I—FEDERAL-AID HIGHWAYS

Sec. 1001. Amendments to title 23, United States Code.

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Sec. 1101. Authorization of appropriations.
Sec. 1102. Highway obligation ceiling.
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Sec. 1104. Apportionment.
Sec. 1105. Federal-aid systems.
Sec. 1106. National Highway System program.
Sec. 1107. Surface transportation program.
Sec. 1108. Congestion mitigation and air quality improvement program.
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Sec. 1113. Ferry boats and ferry terminal facilities.
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Sec. 1115. Minimum investment in highway bridges.
Sec. 1116. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
Sec. 1117. Puerto Rico highway program.
Sec. 1118. Appalachian development highway system.
Sec. 1119. References to Mass Transit Account.

Subtitle B—Innovative Financing

Sec. 1201. Transportation infrastructure finance and innovation.
Sec. 1202. State infrastructure bank program.
Sec. 1203. State infrastructure bank capitalization.
Sec. 1204. Tolling.
Sec. 1205. HOV facilities.
Sec. 1206. Public-private partnerships.

Subtitle C—Highway Safety

Sec. 1301. Highway safety improvement program.
Sec. 1302. Railway-highway crossings.
Sec. 1303. Highway worker safety.

Subtitle D—Freight Mobility

Sec. 1401. National freight policy.
Sec. 1402. State freight advisory committees.
Sec. 1403. State freight plans.
Sec. 1404. Trucking productivity.
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Sec. 1506. Tribal transportation self-governance program.

Subtitle F—Program Elimination and Consolidation

Sec. 1601. Program elimination and consolidation.

Subtitle G—Miscellaneous

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Sec. 1708. Funding flexibility for transportation emergencies.
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Sec. 1710. Extension of over-the-road bus and public transit vehicle exemption from axle weight restrictions.
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Sec. 1712. Retroreflectivity.
Sec. 1713. Engineering judgment.
Sec. 1714. Evacuation routes.
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Sec. 1718. Engineering and design services.
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Sec. 8401. Positive train control.

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SEC. 2. GENERAL DEFINITIONS.

In titles I through XIII of this Act, the following definitions apply:

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

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

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, titles I through VII of this Act, including the amendments made by those titles, shall take effect on October 1, 2012.

TITLE I—FEDERAL-AID HIGHWAYS

SEC. 1001. AMENDMENTS TO TITLE 23, UNITED STATES CODE.

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

Subtitle A—Authorization of Programs

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

(a) HIGHWAY TRUST FUND.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account):

(1) NATIONAL HIGHWAY SYSTEM PROGRAM.—For the National Highway System program under section 119 of title 23, United States Code—

(A) $17,400,000,000 for fiscal year 2013;
(B) $17,600,000,000 for fiscal year 2014;
(C) $17,600,000,000 for fiscal year 2015; and
(D) $17,750,000,000 for fiscal year 2016.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of title 23, United States Code—

(A) $10,500,000,000 for fiscal year 2013;
(B) $10,550,000,000 for fiscal year 2014;
(C) $10,600,000,000 for fiscal year 2015; and
(D) $10,750,000,000 for fiscal year 2016.

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of title 23, United States Code—

(A) $2,600,000,000 for fiscal year 2013;
(B) $2,605,000,000 for fiscal year 2014;
(C) $2,610,000,000 for fiscal year 2015; and
(D) $2,630,000,000 for fiscal year 2016.

(4) TRIBAL TRANSPORTATION PROGRAM.—For the tribal transportation program under section 202 of title 23, United States Code, $465,000,000 for each of fiscal years 2013 through 2016.

(5) FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Federal lands transportation program under section 203 of title 23, United States Code, $535,000,000 for each of fiscal years 2013 through 2016.

(6) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code, $85,000,000 for each of fiscal years 2013 through 2016.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 14501 of title 40, United States Code, $470,000,000 for each of fiscal years 2013 through 2016.

(b) ALTERNATIVE TRANSPORTATION ACCOUNT.—The following sums are authorized to be appropriated out of the Alternative Transportation Account of the Highway Trust Fund:

(1) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, $2,000,000,000 for each of fiscal years 2013 through 2016.

(2) FERRY BOAT AND FERRY TERMINAL FACILITIES PROGRAM.—For the ferry boat and ferry terminal facilities program under section 147 of title 23, United States Code, $67,000,000 for each of fiscal years 2013 through 2016.

(3) PUERTO RICO HIGHWAY PROGRAM.—For the Puerto Rico highway program under section 165 of title 23, United States Code, $150,000,000 for each of fiscal years 2013 through 2016.

(4) TERRITORIAL HIGHWAY PROGRAM.—For the territorial highway program under section 215 of title 23, United States Code, $50,000,000 for each of fiscal years 2013 through 2016.

(c) DISADVANTAGED BUSINESS ENTERPRISES.—

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

(A) SMALL BUSINESS CONCERN.—

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

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

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" means—

(i) women; and

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

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

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

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

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

(i) women;

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

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

(4) UNIFORM CERTIFICATION.—

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

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

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

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

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

(B) such other information as the Secretary determines to be appropriate for the proper monitoring of the disadvantaged business enterprise program.

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

SEC. 1102. HIGHWAY OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Subject to subsection (f), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs authorized from the Highway Trust Fund (other than the Alternative Transportation Account) shall not exceed—

(1) $37,366,000,000 for fiscal year 2013;

(2) $37,621,000,000 for fiscal year 2014;

(3) $37,676,000,000 for fiscal year 2015; and

(4) $38,000,000,000 for fiscal year 2016.

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

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

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

(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);

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

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

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (as in effect for fiscal years 2005 through 2012, but only in an amount equal to $639,000,000 for each of those fiscal years);

(11) section 1603 of SAFETEA–LU (Public Law 109–59; 119 Stat. 1248), to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation; and

(12) section 105 of title 23, United States Code (as in effect for fiscal years 2013 through 2016, but only in an amount equal to $639,000,000 for each of such fiscal years).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2013 through 2016, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

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

(3) shall determine the ratio that—

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

(B) the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (11) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(12) for the fiscal year), less the aggregate of amounts not distributed under paragraphs (1) and (2);

(4)(A) shall distribute the obligation authority provided by subsection (a) less the aggregate of amounts not distributed under paragraphs (1) and (2), for section 14501 of title 40, United States Code, so that the amount of obligation authority available for that section is equal to the amount determined by multiplying—

(i) the ratio determined under paragraph (3); by

(ii) the sums authorized to be appropriated for that section for the fiscal year; and

(B) shall distribute $2,000,000,000 for section 105 of title 23, United States Code;

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

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

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

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate of amounts not distributed under paragraphs (1) and (2) and the aggregate of amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2013 through 2016—

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

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

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2013 through 2016, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

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

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

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

(f) SPECIAL LIMITATION CHARACTERISTICS.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

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

SEC. 1103. ALTERNATIVE TRANSPORTATION ACCOUNT OBLIGATION CEILING.

(a) IN GENERAL.—Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Alternative Transportation Account of the Highway Trust Fund for the programs for which sums are authorized to be appropriated under sections 1101(b) and 7001(a) of this Act shall not exceed $2,707,000,000 for each of fiscal years 2013 through 2016.

(b) AVAILABILITY OF FUNDS.—Section 118(a) is amended—

(1) by striking "Mass Transit Account" and inserting "Alternative Transportation Account"; and

(2) by inserting ", and amounts made available from the Alternative Transportation Account to carry out the congestion mitigation and air quality improvement program under section 149, the ferry boat and ferry terminal facilities program under section 147, the Puerto Rico highway program under section

165, and the territorial highway program under section 215," before "shall be available".

SEC. 1104. APPORTIONMENT.

Section 104 is amended to read as follows:

"§ 104. Apportionment

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration $400,000,000 for each of fiscal years 2013 through 2016.

"(2) PURPOSES.—The funds made available under paragraph (1) shall be used—

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

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

"(3) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

"(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the set-asides authorized by subsection (f), subsections (b) and (c) of section 140, and section 130(e), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the National Highway System program, the congestion mitigation and air quality improvement program, the surface transportation program, and the highway safety improvement program among the several States in the following manner:

"(1) NATIONAL HIGHWAY SYSTEM PROGRAM.—

"(A) IN GENERAL.—For the National Highway System program, in accordance with the following formula:

"(i) 15 percent of the apportionments in the ratio that—

"(I) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

"(II) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

"(ii) 15 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

"(II) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

"(iii) 5 percent of the apportionments in the ratio that—

"(I) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

"(II) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

"(iv) 15 percent of the apportionments in the ratio that—

"(I) the total lane miles on Interstate System routes open to traffic in each State; bears to

"(II) the total lane miles on Interstate System routes open to traffic in all States.

"(v) 15 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on Interstate System routes open to traffic in each State; bears to

"(II) the total vehicle miles traveled on Interstate System routes open to traffic in all States.

"(vi) 35 percent of the apportionments in the ratio that—

"(I) the total of the annual contributions to the Highway Trust Fund (other than the Alternative Transportation Account) attributable to commercial vehicles in each State; bears to

"(II) the total of the annual contributions to the Highway Trust Fund (other than the Alternative Transportation Account) attributable to commercial vehicles in all States.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned for a fiscal year under this paragraph.

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

"(ii) the total of all weighted nonattainment and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

"(i) 1.0 if, at the time of the apportionment, the area is a maintenance area;

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

"(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under such subpart;

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under such subpart;

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under such subpart;

"(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under such subpart;

"(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide; or

"(viii) 1.0 if, at the time of the apportionment, an area is designated as nonattainment for ozone under subpart 1 of part D of title I of such Act (42 U.S.C. 7501 et seq.).

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned for a fiscal year under this paragraph.

"(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

"(i) 15 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 25 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 25 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Alternative Transportation Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Alternative Transportation Account) in the latest fiscal year for which data are available.

"(iv) 35 percent of the apportionments in the ratio that—

"(I) the bridge replacement and rehabilitation costs in each State (as determined under subsection (c)(4)); bears to

"(II) the bridge replacement and rehabilitation costs in all States (as determined under subsection (c)(5)).

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned for a fiscal year under this paragraph.

"[(4) Reserved.]

"(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

"(i) 33⅓ percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 33⅓ percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 33⅓ percent of the apportionments in the ratio that—

"(I) the number of fatalities on Federal-aid highways in each State in the latest fiscal year for which data are available; bears to

"(II) the number of fatalities on Federal-aid highways in all States in the latest fiscal year for which data are available.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned for a fiscal year under this paragraph.

"(c) BRIDGE CALCULATION.—For each fiscal year, the Secretary shall determine the bridge replacement and rehabilitation costs as follows:

"(1) The Secretary shall identify deficient highway bridges in each State.

"(2) The Secretary shall place each deficient highway bridge into one of the following categories:

"(A) Federal-aid highway bridges eligible for replacement.

"(B) Federal-aid highway bridges eligible for rehabilitation.

"(C) Bridges not on Federal-aid highways eligible for replacement.

"(D) Bridges not on Federal-aid highways eligible for rehabilitation.

"(3) The Secretary shall determine—

"(A) the deck area of deficient highway bridges in each category described in paragraph (2); and

"(B) the respective unit price of such deck area on a State-by-State basis.

"(4) The Secretary shall determine the bridge replacement and rehabilitation costs for each State by multiplying the deck area of deficient bridges in the State by the respective unit price.

"(5) The Secretary shall determine the bridge replacement and rehabilitation costs for all States by multiplying the deck area of deficient bridges in all States by the respective unit price.

"(d) CERTIFICATION OF APPORTIONMENTS.—

"(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall certify to each of the State transportation departments the sums which the Secretary has apportioned under this section to each State for such fiscal year. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

"(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under this section or section 105 by the 21st day of a fiscal year beginning after September 30, 2012, the Secretary shall transmit, by such 21st day, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written statement of the reason for not making such apportionment in a timely manner.

"(e) AUDITS OF HIGHWAY TRUST FUND.—From administrative funds made available under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

"(f) METROPOLITAN PLANNING.—

"(1) SET ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.15 percent of the funds authorized to be appropriated for the National Highway System program and surface transportation program authorized under this title to carry out the requirements of section 5203 of title 49.

"(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—Funds set aside under paragraph (1) shall be apportioned to the States in the ratio which the population in urbanized areas, or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than ½ of 1 percent of the amount apportioned.

"(3) USE OF FUNDS.—

"(A) IN GENERAL.—The funds apportioned to any State under paragraph (2) shall be made available by the State to the metropolitan planning organizations responsible for carrying out the provisions of section 5203 of title 49, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas.

"(B) UNUSED FUNDS.—Any funds that are not used to carry out section 5203 of title 49 may be made available by a metropolitan planning organization to the State to fund activities under section 5204 of such title.

"(4) DISTRIBUTION OF FUNDS WITHIN STATES.—

"(A) IN GENERAL.—The distribution within any State of the planning funds made available to agencies under paragraph (3) shall be in accordance with a formula developed by each State and approved by the Secretary that shall consider, but not necessarily be limited to, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 5203 of title 49 and other applicable requirements of Federal law.

"(B) REIMBURSEMENT.—Not later than 30 days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 5203 of title 49, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

"(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.

"(g) REPORT TO CONGRESS.—For each fiscal year, the Secretary shall submit to Congress, and also make available to the public in a user-friendly format via the Internet, a report on—

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

"(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section and section 105;

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

"(4) the rates of obligation of funds apportioned or set aside under this section and sections 105 and 133, according to—

"(A) program;

"(B) funding category or subcategory;

"(C) type of improvement;

"(D) State; and

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

"(h) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

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

"(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the funds transferred under subparagraph (A).

"(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds made available under chapter 53 of title 49 for highway projects or transportation planning

may be transferred to and administered by the Secretary in accordance with this title.

"(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to funds transferred under subparagraph (A).

"(3) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary, at the request of a State, may transfer funds apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding one or more projects that are eligible for assistance with funds so apportioned or allocated.

"(B) APPORTIONMENT.—A transfer under subparagraph (A) shall have no effect on any apportionment of funds to a State under this section or section 105.

"(C) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(3) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects that are transferred under this subsection.

"(i) RECREATIONAL TRAILS PROGRAM.—

"(1) ADMINISTRATIVE COSTS.—Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program $840,000 for each fiscal year. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

"(2) APPORTIONMENT TO THE STATES.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year among eligible States in the following manner:

"(A) 50 percent equally among eligible States.

"(B) 50 percent in amounts proportionate to the degree of non-highway recreational fuel use in each eligible State during the preceding year.

"(3) ELIGIBLE STATE DEFINED.—In this subsection, the term 'eligible State' means a State that meets the requirements of section 206(c).".

SEC. 1105. FEDERAL-AID SYSTEMS.

Section 103(b) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by inserting "and the modifications to the system approved by the Secretary before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012" after "1996"; and

(B) in subparagraph (C) by inserting "and commerce" before the period at the end;

(2) in paragraph (2)—

(A) in subparagraph (B) by inserting "and border crossings on such routes not included on the National Highway System before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012" before the period at the end; and

(B) in subparagraph (C) by inserting "not included on the National Highway System before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012" before the period at the end; and

(3) by striking paragraphs (6) and (7) and inserting the following:

"(6) REQUIREMENT FOR STATE ASSET MANAGEMENT PLAN FOR NATIONAL HIGHWAY SYSTEM.—

"(A) IN GENERAL.—A State shall develop and implement a risk-based State asset management plan for managing all infrastructure assets in the right-of-way corridor of the National Highway System based on a process established by the Secretary. The process shall require use of quality information and economic and engineering analysis to identify a sequence of maintenance, repair, and rehabilitation actions that will achieve and maintain a desired state of good repair over the lifecycle of the network at the least possible cost.

"(B) PERFORMANCE GOALS.—A State asset management plan shall include strategies leading to a program of projects that will make progress toward achievement of the national goals for infrastructure condition and performance of the National Highway System in a manner consistent with the requirements of chapter 52 of title 49.

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

"(i) A summary listing of the highway infrastructure assets on the National Highway System in the State that includes current condition and performance statistics by asset.

"(ii) Asset management objectives and measures.

"(iii) Analysis of lifecycle cost, value for investment, and risk management.

"(iv) A financial plan.

"(v) Investment strategies.

"(D) PROCESS.—Not later than 2 years after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall establish a process by which a State shall develop and implement a risk-based State asset management plan described in subparagraph (A).

"(E) COMPLIANCE.—Notwithstanding section 120, with respect to the second fiscal year beginning after the date of establishment of the process under subparagraph (D) or any subsequent fiscal year, if the Secretary determines that a State has not developed and implemented a State asset management plan in a manner consistent with this section, the Federal share payable on account of any project or activity carried out by the State in that fiscal year under section 119 shall be 70 percent.".

SEC. 1106. NATIONAL HIGHWAY SYSTEM PROGRAM.

(a) IN GENERAL.—Section 119 is amended to read as follows:

"§ 119. National Highway System program

"(a) ESTABLISHMENT.—The Secretary shall establish and implement a National Highway System program under this section.

"(b) PURPOSES.—The purposes of the National Highway System program shall be—

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

"(2) to provide support for the construction of new facilities on the National Highway System; and

"(3) to ensure that investments of National Highway System program funds are directed to achievement of performance goals established in a State's asset management plan for the National Highway System under section 103(b)(6).

"(c) ELIGIBLE FACILITIES.—Except as otherwise specifically provided by this section, to be eligible for funding apportioned under section 104(b)(1) to carry out this section, a facility must be located on the National Highway System.

"(d) ELIGIBLE PROJECTS.—Funds apportioned to a State to carry out this section may be obligated only for a project that is—

"(1) on an eligible facility, as described in subsection (c);

"(2) a project, or is a part of a program of projects, supporting progress toward the achievement of national performance goals under section 5206 of title 49 for improving infrastructure condition, safety, mobility, or freight movement on the National Highway System;

"(3) consistent with the requirements of sections 5203 and 5204 of title 49; and

"(4) for one or more of the purposes specified in subsection (e).

"(e) PROJECT PURPOSES.—A project receiving funding under this section shall be for one or more of the following purposes:

"(1) Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvements of segments of the National Highway System.

"(2) Construction, reconstruction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, and impact protection measures) of bridges and tunnels on the National Highway System.

"(3) Inspection and evaluation, as defined in section 151, of bridges and tunnels on the National Highway System, or inspection and evaluation of other highway infrastructure assets on the National Highway System.

"(4) Training of bridge and tunnel inspectors, as defined in section 151.

"(5) Rehabilitation or replacement of existing ferry boats and ferry boat facilities, including approaches, that connect road segments of the National Highway System.

"(6) Highway safety improvements for segments of the National Highway System.

"(7) Capital and operating costs for traffic management and traveler information monitoring, management, and control facilities and programs for the National Highway System.

"(8) Infrastructure-based intelligent transportation systems capital improvements for the National Highway System.

"(9) Development and implementation of a State asset management plan for the National Highway System in accordance with section 103(b), including data collection, maintenance, and integration and the cost associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management.

"(10) Environmental mitigation efforts related to projects funded under this section, as described in subsection (f).

"(11) Construction of publicly owned intracity or intercity bus terminals.

"(12) Environmental restoration and pollution abatement associated with a project funded under this section in accordance with section 328.

"(f) ENVIRONMENTAL MITIGATION.—

"(1) ELIGIBLE ACTIVITIES.—Environmental mitigation efforts referred to in subsection (e)(10) include—

"(A) participation in mitigation banking or other third-party mitigation arrangements, such as—

"(i) the purchase of credits from commercial mitigation banks;

"(ii) the establishment and management of agency-sponsored mitigation banks; and

"(iii) the purchase of credits or establishment of in-lieu fee mitigation programs;

"(B) contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats, wetlands, and other resources; and

"(C) the development of statewide and regional environmental protection plans.

"(2) INCLUSION OF OTHER ACTIVITIES.—The banks, efforts, and plans described in paragraph (1) include any such banks, efforts, and plans developed in accordance with applicable law (including regulations).

"(3) TERMS AND CONDITIONS.—The following terms and conditions apply to natural habitat and wetlands mitigation efforts referred to in subsection (e)(10):

"(A) Contributions to the mitigation effort may take place concurrent with, in advance of, or subsequent to the construction of a project or projects.

"(B) Credits from any agency-sponsored mitigation bank that are attributable to funding under this section may be used only for projects funded under this title unless the agency pays to the Secretary an amount equal to the Federal funds attributable to the mitigation bank credits the agency uses for purposes other than mitigation of a project funded under this title.

"(4) PREFERENCE.—At the discretion of the project sponsor, preference shall be given, to the maximum extent practicable, to mitigating an environmental impact through the use of a mitigation bank or other third-party mitigation arrangement, if the use of credits from the mitigation bank for the project is approved by the applicable Federal agency.

"(g) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided by paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be determined under section 120(b).

"(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be determined under section 120(a).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

"119. National Highway System program.".

SEC. 1107. SURFACE TRANSPORTATION PROGRAM.

(a) ELIGIBLE PROJECTS.—Section 133(b) is amended—

(1) by striking paragraphs (1) and (15);

(2) by redesignating paragraphs (2) through (14) as paragraphs (5) through (17), respectively;

(3) by inserting before paragraph (5) (as so redesignated) the following:

"(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, and operational improvements for highways, including construction of designated routes of the Appalachian Development Highway System.

"(2) Replacement (including replacement with fill material), rehabilitation, preservation, and protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges and tunnels on public roads of all functional classifications.

"(3) Construction of a new bridge or tunnel at a new location on a Federal-aid highway.

"(4) Inspection and evaluation of bridges and tunnels and training of bridge and tunnel inspectors (as defined in section 151), and inspection and evaluation of other highway assets (including signs, retaining walls, and drainage structures).''; and

(4) by striking paragraph (14) (as so redesignated) and inserting the following:

"(14) Environmental mitigation efforts relating to projects funded under this title in the same manner and to the same extent as such activities are eligible under section 119(f).''.

(b) LOCATION OF PROJECTS.—Section 133(c) is amended to read as follows:

"(c) LOCATION OF PROJECTS.—Except for projects described in subsections (b)(2), (b)(6), and (b)(7), surface transportation program projects may not be undertaken on roads functionally classified as local or rural minor collectors unless the roads were on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.''.

(c) ALLOCATION OF APPORTIONED FUNDS.—

(1) REPEAL.—Section 133(d)(2) is repealed.

(2) DIVISION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION AND OTHER AREAS.—Section 133(d)(3) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking "62.5 percent of the remaining 90 percent'' and inserting "50 percent''; and

(ii) in matter following clause (ii) by striking "37.5 percent'' and inserting "50 percent''; and

(B) by adding at the end the following:

"(E) CONSULTATION WITH RURAL PLANNING ORGANIZATIONS.—For purposes of subparagraph (A)(ii), before obligating funding attributed to an area with a population greater than 5,000 and less than 200,000, a State shall consult with the rural planning organizations that represent the area, if any.''.

(3) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—Section 133(d)(5)(A) is amended by striking "funded from the allocation required under paragraph (2)''.

(d) ADMINISTRATION.—Section 133(e)(3) is amended to read as follows:

"(3) PAYMENTS.—The Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary.''.

(e) OBLIGATION AUTHORITY.—Section 133(f)(1) is amended—

(1) by striking "2004 through 2006'' and inserting "2011 through 2013''; and

(2) by striking "2007 through 2009'' and inserting "2014 through 2016''.

(f) DIVISION OF STP FUNDS FOR AREAS OF LESS THAN 5,000 POPULATION.—

(1) SPECIAL RULE.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under section 133(d)(3)(B) of such title for each of fiscal years 2013 through 2016 may be obligated on roads functionally classified as minor collectors.

(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) with respect to a State if the Secretary determines that the authority provided under paragraph (1) is being used excessively by the State.

SEC. 1108. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ELIGIBLE PROJECTS.—Section 149(b) is amended to read as follows:

"(b) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—

"(A) REQUIREMENTS FOR OBLIGATION OF FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(2) for a transportation project or program if the project or program meets the requirements of subparagraph (B) and (C).

"(B) AREA SERVED BY PROJECT OR PROGRAM.—A project or program meets the requirements of this subparagraph if the project or program is for an area in the State that—

"(i) is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b));

"(ii) is or was designated as a nonattainment area under such section 107(d) after December 31, 1997; or

"(iii) is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7505a).

"(C) PURPOSE OF PROJECT OR PROGRAM.—A project or program meets the requirements of this subparagraph if—

"(i) the Secretary, after consultation with the Administrator, determines that—

"(I) on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi) of such section), the project or program is likely to contribute to—

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

"(bb) the maintenance of a national ambient air quality standard in a maintenance area; or

"(II) the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

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

"(iii) the Secretary, after consultation with the Administrator, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard through reductions in travel time delay, vehicle miles traveled, or fuel consumption or through other factors; or

"(iv) the Secretary determines that the project or program is likely to contribute to the mitigation of congestion.

"(2) SPECIAL RULES.—

"(A) PROJECTS RESULTING IN NEW CAPACITY FOR SINGLE OCCUPANT VEHICLES.—A State may obligate funds apportioned to the State under section 104(b)(2) for a project or program that will result in the construction of new capacity available to single occupant vehicles only if the project or program is likely to contribute to the mitigation of congestion or the improvement of air quality.

"(B) PROJECTS FOR PM-10 NONATTAINMENT AREAS.—A State may obligate funds apportioned to the State under section 104(b)(2) for a project or program for an area that is nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

"(C) ELECTRIC VEHICLE INFRASTRUCTURE.—A State may obligate funds apportioned under section 104(b)(2) or 104(b)(3) for a project or program to establish or support the establishment of electric vehicle battery charging or changing facilities at any location in the State. Such projects or programs may be carried out by a State or local agency or through a public-private partnership.".

(b) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—Section 149 is amended—

(1) by striking subsection (f); and

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

SEC. 1109. EQUITY BONUS PROGRAM.

Section 105 is amended to read as follows:

"§ 105. Equity bonus program

"(a) PROGRAM.—

"(1) IN GENERAL.—Subject to subsections (c), (d), and (e), for fiscal year 2013 and each fiscal year thereafter, the Secretary shall apportion among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

"(2) SPECIFIED PROGRAMS.—The programs referred to in paragraph (1) are—

"(A) the metropolitan planning programs under section 104(f);

"(B) the equity bonus program under this section;
"(C) the National Highway System program under section 119;
"(D) the rail-highway grade crossing program under section 130;
"(E) the surface transportation program under section 133;
"(F) the highway safety improvement program under section 148;
"(G) the recreational trails programs under section 206;
"(H) the State infrastructure bank capitalization program under section 611; and
"(I) the Appalachian development highway system program under section 14501 of title 40.

"(b) STATE PERCENTAGE.—For each of fiscal years 2013 through 2016, the percentage referred to in subsection (a) for each State shall be 94 percent of the quotient obtained by dividing—
"(1) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund in the most recent fiscal year for which data are available; by
"(2) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund for the fiscal year.

"(c) MINIMUM AMOUNT.—
"(1) IN GENERAL.—For each fiscal year, before making the apportionments under subsection (a)(1), the Secretary shall apportion among the States amounts sufficient to ensure that each State receives a combined total apportionment for the programs specified in subsection (a)(2) and the congestion mitigation and air quality improvement program under section 149 that equals or exceeds the combined amount that the State was apportioned for fiscal year 2012 for the programs specified in section 105(a)(2) of this title (other than the high priority projects program under subparagraph (H) of such section), as in effect on the day before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012.
"(2) SPECIAL RULE.—In determining a State's combined apportionment for fiscal year 2012 for purposes of paragraph (1), the Secretary shall not consider amounts apportioned to the State for such fiscal year under the following:
"(A) Section 111(d)(1) of the Surface Transportation Extension Act of 2011, Part II (Public Law 112–30; 125 Stat. 344).
"(B) Section 111(d)(3) of the Surface Transportation Extension Act of 2011, Part II (Public Law 112–30; 125 Stat. 345).

"(d) NO NEGATIVE ADJUSTMENT.—No negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

"(e) TREATMENT OF FUNDS.—
"(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion the amounts made available under this section that exceed $2,639,000,000 so that the amount apportioned to each State under this section for each program referred to in subparagraphs (C) and (E) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned to such State under this section by the ratio that—
"(A) the amount of funds apportioned to such State for each program referred to in subparagraphs (C) and (E) of subsection (a)(2) for a fiscal year; bears to
"(B) the total amount of funds apportioned to such State for all such programs for such fiscal year.
"(2) REMAINING DISTRIBUTION.—The Secretary shall administer the remainder of funds made available under this section to the States in accordance with section 133, except that section 133(d)(3) and section 1115(a) of the American Energy and Infrastructure Jobs Act of 2012 shall not apply to the amounts administered pursuant to this paragraph.

"(f) METROPOLITAN PLANNING SET-ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—
"(1) IN GENERAL.—Subject to paragraphs (2) and (3), there is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) to carry out this section $3,900,000,000 for each of fiscal years 2013 through 2016.
"(2) UPWARD ADJUSTMENT.—If the amount authorized by paragraph (1) for a fiscal year is less than the minimum amount required to ensure that each State receives the minimum percentage of total apportionments required under subsection (a)(1) and the minimum amount required under subsection (c)(1) for the fiscal year—

"(A) the amount authorized by paragraph (1) for the fiscal year shall be increased by the amount of the shortfall, so as to equal such minimum amount; and

"(B) the amounts authorized by section 1101(a)(2) of the American Energy and Infrastructure Jobs Act of 2012 for the surface transportation program for the fiscal year shall be decreased by the amount of the shortfall.

"(3) DOWNWARD ADJUSTMENT.—If the amount authorized by paragraph (1) for a fiscal year is more than the minimum amount required to ensure that each State receives the minimum percentage of total apportionments required under subsection (a)(1) and the minimum amount required under subsection (c)(1) for the fiscal year—

"(A) the amount authorized by paragraph (1) for the fiscal year shall be decreased by the amount of the excess, so as to equal such minimum amount; and

"(B) the amounts authorized by section 1101(a)(1) of the American Energy and Infrastructure Jobs Act of 2012 for the National Highway System program for the fiscal year shall be increased by the amount of the excess.".

SEC. 1110. PROJECT APPROVAL AND OVERSIGHT.

(a) ASSUMPTION BY STATES OF RESPONSIBILITIES OF THE SECRETARY.—Section 106(c)(1) is amended to read as follows:

"(1) NHS PROJECTS.—For projects under this title that are on the National Highway System, including projects on the Interstate System, the State may assume the responsibility of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections with respect to such projects unless the Secretary determines that such assumption is not appropriate.".

(b) VALUE ENGINEERING ANALYSIS.—Section 106(e) is amended—

(1) in paragraph (2)(A)—

(A) by striking "Federal-aid system" and inserting "National Highway System receiving Federal assistance"; and

(B) by striking "$25,000,000" and inserting "$50,000,000";

(2) in paragraph (2)(B)—

(A) by inserting "on the National Highway System receiving Federal assistance" after "project"; and

(B) by striking "$20,000,000" and inserting "$40,000,000"; and

(3) by adding at the end the following:

"(5) DESIGN-BUILD PROJECTS.—A requirement to provide a value engineering analysis under this subsection does not apply to a project delivered using the design-build method of construction.".

(c) MAJOR PROJECTS.—Section 106(h)(3) is amended—

(1) in subparagraph (A) by striking "and";

(2) in subparagraph (B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) assess the appropriateness of a public-private partnership to deliver the project.".

(d) USE OF ADVANCED MODELING TECHNOLOGIES.—Section 106 is amended by adding at the end the following:

"(j) USE OF ADVANCED MODELING TECHNOLOGIES.—

"(1) IN GENERAL.—With respect to transportation projects that receive Federal funding, the Secretary shall encourage the use of advanced modeling technologies during environmental, planning, financial management, design, simulation, and construction processes related to the projects.

"(2) ACTIVITIES.—In carrying out paragraph (1), the Secretary shall—

"(A) compile information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies;

"(B) disseminate to States information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies; and

"(C) promote the use of advanced modeling technologies.

"(3) COMPREHENSIVE PLAN.—The Secretary shall develop and publish on the Internet Web site of the Department of Transportation a detailed and comprehensive plan for the implementation of paragraph (1).

"(4) ADVANCED MODELING TECHNOLOGY DEFINED.—The term 'advanced modeling technology' means an available or developing technology, including 3-dimensional digital modeling, that can accelerate and improve the environmental review process, increase effective public participation, enhance the detail and accuracy of project designs, increase safety, accelerate construction and reduce

construction costs, or otherwise expedite project delivery with respect to transportation projects that receive Federal funding.".

(e) REVIEW OF OVERSIGHT PROGRAM.—

(1) IN GENERAL.—The Secretary shall review the oversight program established under section 106(g) of title 23, United States Code, to determine the efficacy of the program in monitoring the effective and efficient use of funds authorized to carry out title 23, United States Code.

(2) MINIMUM REQUIREMENTS FOR REVIEW.—At a minimum, the review under paragraph (1) shall assess the capability of the program to—

(A) identify projects funded under title 23, United States Code, for which there are cost or schedule overruns; and

(B) evaluate the extent of such overruns.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit 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 results of the review conducted under paragraph (1), which shall include recommendations for legislative changes to improve the oversight program established under section 106(g) of title 23, United States Code.

(f) TRANSPARENCY AND ACCOUNTABILITY.—

(1) DATA COLLECTION.—The Secretary shall compile and make available to the public on the Internet Web site of the Department the annual expenditure data for funds made available under title 23 and chapter 53 of title 49, United States Code.

(2) REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall ensure that the data made available on the Internet Web site of the Department—

(A) is organized by project and State;

(B) to the maximum extent possible, is updated regularly to reflect the current status of obligations, expenditures, and Federal-aid projects; and

(C) can be searched and downloaded by users of the Web site.

(3) REPORT TO CONGRESS.—The Secretary shall transmit, annually, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing a summary of the data described in paragraph (1) for the 1-year period ending on the date on which the report is submitted.

SEC. 1111. EMERGENCY RELIEF.

(a) ELIGIBILITY.—Section 125(d) is amended to read as follows:

"(d) ELIGIBILITY.—

"(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary may expend funds from the emergency fund authorized by this section for the repair or reconstruction of Federal-aid highways in accordance with the provisions of this chapter.

"(2) MAXIMUM TOTAL PROJECT COSTS.—

"(A) IN GENERAL.—The total cost of a project carried out under this section may not exceed the cost of repair or reconstruction of a comparable facility.

"(B) COMPARABLE FACILITY DEFINED.—In this paragraph, the term 'comparable facility' means a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life.

"(3) DEBRIS REMOVAL.—The costs of debris removal shall be an eligible expense under this section only for—

"(A) an event not declared a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

"(B) an event declared a major disaster or emergency by the President under that Act if the debris removal is not eligible for assistance pursuant to section 403, 407, or 502 of that Act (42 U.S.C. 5170b, 5173, 5192).

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

"(5) TEMPORARY SUBSTITUTE HIGHWAY TRAFFIC SERVICE.—Notwithstanding any other provision of this chapter, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund under this section authorized for Federal-aid highways.

"(6) APPLICATIONS; EMERGENCY DECLARATIONS.—Except as to highways, roads, and trails referred to in subsection (e), no funds may be expended under this section unless—

"(A) a declaration is made—

"(i) by the Governor of the State and concurred in by the Secretary, that an emergency exists; or

"(ii) by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists; and

"(B) not later than 2 years after a declaration is made under subparagraph (A), the Secretary has received an application for assistance from the State transportation department that includes a comprehensive list of potentially eligible project sites and repair costs.".

(b) TRIBAL ROADS, FEDERAL LANDS HIGHWAYS, AND PUBLIC ROADS ON FEDERAL LANDS.—Section 125(e) is amended to read as follows:

"(e) TRIBAL ROADS, FEDERAL LANDS HIGHWAYS, AND PUBLIC ROADS ON FEDERAL LANDS.—

"(1) USE OF EMERGENCY FUND.—Notwithstanding subsection (d)(1), the Secretary may expend funds from the emergency fund authorized by this section, either independently or in cooperation with any other branch of the Government, a State agency, tribal organization, organization, or person, for the repair or reconstruction of tribal roads, Federal lands highways, and other federally owned roads that are open to public travel, whether or not such roads are Federal-aid highways.

"(2) REIMBURSEMENTS.—The Secretary may reimburse Federal agencies, State (including political subdivisions of the States) agencies, and Indian tribal governments for expenditures made on projects determined eligible under this section, including expenditures for emergency repairs made before a determination of eligibility. Such reimbursements to Federal agencies and Indian tribal governments shall be transferred to the account from which the expenditure was made, or to a similar account that remains available for obligation, and the budget authority associated with the expenditure shall be restored to the agency from which it was derived and shall be available for obligation until the end of the fiscal year following the year in which the transfer occurs.

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

(c) RULEMAKING.—Not later than 6 months after the date of enactment of this Act, the Secretary shall initiate a rulemaking to update regulations governing the emergency relief program under section 125 of title 23, United States Code, to—

(1) ensure that allocations are made to States only for sums that the State will be able to obligate in the current fiscal year;

(2) determine whether to raise the threshold for an eligible event and raise such threshold if warranted; and

(3) address such other matters as the Secretary considers appropriate.

(d) IMPROVING PROGRAM IMPLEMENTATION.—The Secretary shall take steps to—

(1) improve training for Federal and State officials on emergency relief requirements and processes;

(2) establish an Internet Web site containing information on best practices for the implementation of the emergency relief program;

(3) address program differences with the disaster assistance program of the Federal Emergency Management Agency; and

(4) provide guidance on performing a benefit-cost analysis to justify cases in which a betterment is eligible for funding under the emergency relief program.

SEC. 1112. UNIFORM TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS.

Section 126 is amended to read as follows:

"§ 126. Uniform transferability of Federal-aid highway funds

"(a) GENERAL RULE.—Notwithstanding any other provision of law, but subject to subsection (b), a State may transfer not to exceed 25 percent of the State's apportionment under paragraph (1), (3), or (5) of section 104(b) for a fiscal year to any other apportionment of the State under any of those paragraphs for that fiscal year.

"(b) APPLICATION TO CERTAIN SET-ASIDES.—No funds may be transferred under this section that are subject to section 104(f) or section 133(d)(3).".

SEC. 1113. FERRY BOATS AND FERRY TERMINAL FACILITIES.

Section 147 is amended—

(1) in subsection (b) by striking "ferry boats, ferry terminals, and ferry maintenance facilities" and inserting "ferry boats and ferry terminals";

(2) by striking subsections (c), (d), and (e) and inserting the following:

"(c) APPORTIONMENT OF FUNDS.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the construction of ferry boats and ferry terminal facilities for each fiscal year among eligible States in the following manner:

"(1) 35 percent based on the total annual number of vehicles carried by ferry systems operating in each eligible State.

"(2) 35 percent based on the total annual number of passengers (including passengers in vehicles) carried by ferry systems operating in each eligible State.

"(3) 30 percent based on the total nautical route miles serviced by ferry systems operating in each eligible State.

"(d) ELIGIBLE STATE DEFINED.—In this section, the term 'eligible State' means a State that has a ferry system operating in the State or between the State and another State."; and

(3) by redesignating subsection (f) as subsection (e).

SEC. 1114. NATIONAL HIGHWAY BRIDGE AND TUNNEL INVENTORY AND INSPECTION PROGRAM.

(a) IN GENERAL.—Section 151 is amended to read as follows:

"§ 151. National highway bridge and tunnel inventory and inspection program

"(a) NATIONAL HIGHWAY BRIDGE AND TUNNEL INVENTORY.—The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges and tunnels, shall—

"(1) inventory all bridges on public roads, on and off Federal-aid highways, including tribally owned and federally owned bridges, that are over waterways, other topographical barriers, other highways, and railroads;

"(2) inventory all tunnels on public roads, on and off Federal–aid highways, including tribally owned and federally owned tunnels;

"(3) identify each bridge or tunnel inventoried under paragraph (1) or (2) that is structurally deficient or functionally obsolete;

"(4) assign a risk-based priority for replacement or rehabilitation of each structurally deficient bridge or tunnel identified under paragraph (3) after consideration of safety, serviceability, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge or tunnel is diminished; and

"(5) determine the cost of replacing each structurally deficient bridge or tunnel identified under paragraph (3) with a comparable facility or the cost of rehabilitating the bridge or tunnel.

"(b) NATIONAL HIGHWAY BRIDGE AND TUNNEL INSPECTION STANDARDS.—

"(1) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper safety inspection and evaluation of all highway bridges and tunnels described in subsections (a)(1) and (a)(2). The standards shall be designed to ensure uniformity in the conduct of such inspections and evaluations.

"(2) MINIMUM REQUIREMENTS FOR INSPECTION STANDARDS.—At a minimum, the standards established under paragraph (1) shall—

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

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

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

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

"(i) written reports on the results of highway bridge and tunnel inspections, together with notations of any action taken pursuant to the findings of such inspections; and

"(ii) inventory data for all highway bridges and tunnels described in subsections (a)(1) and (a)(2) under the jurisdiction of the State, Federal agency, or tribal government that reflect the findings of the most recent highway bridge and tunnel inspections;

"(E) establish a procedure for national certification of highway bridge and tunnel inspectors;

"(F) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, proce-

dures for the Secretary to conduct reviews of State and Federal agency compliance with the standards established under this subsection; and

"(G) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for the States to follow in reporting to the Secretary—

"(i) critical findings relating to structural safety-related deficiencies of highway bridges and tunnels; and

"(ii) monitoring activities and corrective actions taken in response to a critical finding described in clause (i).

"(3) COMPLIANCE REQUIREMENTS.—

"(A) REVIEWS OF STATE COMPLIANCE.—The Secretary shall annually review State compliance with the standards established under this section.

"(B) FINDINGS OF NONCOMPLIANCE.—If the Secretary identifies noncompliance by a State in conducting an annual review under subparagraph (A), the Secretary shall issue a report detailing the noncompliance by December 31 of the calendar year in which the review is conducted and shall provide the State an opportunity to address the noncompliance by—

"(i) developing a corrective action plan to remedy the noncompliance; or

"(ii) resolving the noncompliance within 45 days of receiving notification of the noncompliance.

"(4) PENALTY FOR NONCOMPLIANCE.—

"(A) FUNDING REQUIREMENT.—If the Secretary identifies noncompliance by a State in conducting an annual review under paragraph (3)(A) in a calendar year, and the State fails to address the noncompliance in the manner described in paragraph (3)(B) by August 1 of the succeeding year, on October 1 of such succeeding year, and each year thereafter as necessary, the Secretary shall require the State to dedicate funds apportioned to the State under sections 104(b)(1) and 104(b)(3) to correct the noncompliance.

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

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

"(ii) require approval by the Secretary.

"(c) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—The Secretary, in cooperation with State transportation departments, shall establish a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

"(d) AVAILABILITY OF FUNDS.—In carrying out this section—

"(1) the Secretary may use funds made available to the Secretary under sections 104(a) and 503;

"(2) a State may use amounts apportioned to the State under sections 104(b)(1), 104(b)(3), and 104(b)(5);

"(3) an Indian tribe may use funds made available to the Indian tribe under section 502; and

"(4) a Federal agency may use funds made available to the agency under section 503.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 151 and inserting the following:

"151. National highway bridge and tunnel inventory and inspection program.".

SEC. 1115. MINIMUM INVESTMENT IN HIGHWAY BRIDGES.

(a) MINIMUM INVESTMENT REQUIREMENTS.—

(1) NATIONAL HIGHWAY SYSTEM BRIDGES.—Out of amounts apportioned to a State for a fiscal year under each of sections 104(b)(1) and 104(b)(3) of title 23, United States Code, an amount equal to 10 percent of such amounts shall be available to the State only for eligible projects on highway bridges on the National Highway System if the Secretary determines under paragraph (3) for the fiscal year that more than 10 percent of the total deck area of highway bridges in the State on the National Highway System is located on highway bridges that have been classified as structurally deficient.

(2) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Out of amounts apportioned to a State for a fiscal year under section 104(b)(3) of title 23, United States Code, an amount equal to 110 percent of the amount that the State was required to expend for fiscal year 2009 on projects under section 144(f)(2) of such title (as in effect on the day before the date of enactment of this Act) shall be available to the State only for eligible projects on highway bridges not on Federal-aid highways if the Secretary determines under paragraph (3) for the fiscal year that—

(A) more than 15 percent of the total deck area of highway bridges not on Federal-aid highways in the State is located on highway bridges not on Federal-aid highways that have been classified as structurally deficient; or

(B) more than 2,000 highway bridges not on Federal-aid highways in the State are classified as structurally deficient.

(3) USE OF DATA IN NATIONAL BRIDGE AND TUNNEL INVENTORY.—The Secretary shall make the determinations under paragraphs (1) and (2) with respect to a State for a fiscal year based on an average of the final data concerning highway bridges in the State contained in the national bridge and tunnel inventory for the most recent 3 calendar years for which such data are available.

(4) APPLICABILITY.—This subsection shall apply to amounts apportioned for each of fiscal years 2013 through 2016.

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

(A) ELIGIBLE PROJECT.—The term "eligible project" means a project to replace (including replacement with fill material), rehabilitate, preserve, or protect (including through painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) a bridge or tunnel on a public road of any functional classification.

(B) NATIONAL BRIDGE AND TUNNEL INVENTORY.—The term "national bridge and tunnel inventory" means the national bridge and tunnel inventory established under section 151 of title 23, United States Code (as amended by this title).

(b) BRIDGE REHABILITATION AND REPLACEMENT.—Section 217(e) is amended by striking "then such bridge" and all that follows before the period at the end and inserting "the State carrying out the rehabilitation or replacement is encouraged to provide such safe accommodations as part of the rehabilitation or replacement".

SEC. 1116. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) DEFINITIONS.—Section 164(a) is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(3) in paragraph (4), as so redesignated by paragraph (2) of this subsection, by amending subparagraph (A) to read as follows:

"(A) receive—

"(i) a suspension of all driving privileges for not less than 1 year; or

"(ii) a suspension of unlimited driving privileges for 1 year with limited driving privileges permitted (subject to requirements established under State law) if an ignition interlock device is installed for not less than 1 year on each motor vehicle owned or operated, or both, by the individual;".

(b) TRANSFER OF FUNDS.—Section 164(b)(1)(A) is amended by striking "alcohol-impaired driving countermeasures" and inserting "projects and activities addressing impaired driving (as such term is defined in section 402(p)(11))".

SEC. 1117. PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Section 165 is amended by striking subsections (a) and (b) and inserting the following:

"(a) ALLOCATION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall allocate the funds made available for the fiscal year to carry out this section to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

"(b) APPLICABILITY OF TITLE.—Amounts made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under this chapter.".

(b) CONFORMING AMENDMENT.—Section 165 is amended—

(1) in subsection (c)(1) by striking "sections 104(b) and 144" and inserting "section 104(b)"; and

(2) in subsection (d) by striking "sections 104 and 144" and inserting "section 104".

SEC. 1118. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) APPORTIONMENT.—The Secretary shall apportion funds made available under section 1101(a) for the Appalachian development highway system program for each of fiscal years 2013 through 2016 among the States in the ratio that—

(1) the latest available cost to complete estimate for the Appalachian development highway system under section 14501 of title 40, United States Code, with respect to each State; bears to

(2) the latest available cost to complete estimate for that system with respect to all States.

(b) MINIMUM AND MAXIMUM APPORTIONMENT.—Notwithstanding subsection (a), each State that receives an apportionment under subsection (a) shall receive—

(1) not less than 1 percent of the funds apportioned under this section; and

(2) not more than 25 percent of the funds apportioned under this section.

(c) APPLICABILITY OF TITLE 23.—Funds made available under section 1101(a) of this Act for the Appalachian development highway system program shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with section 14501 of title 40, United States Code, and such funds shall be available to construct highways and access roads under such section 14501 and shall remain available until expended.

(d) CREDIT FOR NON-FEDERAL SHARE.—Section 120(j)(1)(A) is amended by striking "and the Appalachian development highway system program under section 14501 of title 40".

SEC. 1119. REFERENCES TO MASS TRANSIT ACCOUNT.

Any reference to the Mass Transit Account of the Highway Trust Fund in title 23 or 49, United States Code, or in any other provision of law shall be deemed to refer to the Alternative Transportation Account of the Highway Trust Fund.

Subtitle B—Innovative Financing

SEC. 1201. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.

(a) DEFINITIONS.—

(1) ELIGIBLE PROJECT COSTS.—Section 601(a)(1) is amended in the matter preceding subparagraph (A) by inserting "(regardless of when incurred)" after "including the cost".

(2) CONTINGENT COMMITMENT.—Section 601(a) is amended—

(A) by redesignating paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), and (14) as paragraphs (3), (4), (5), (6), (7), (9), (10), (11), (12), (14), (15), (16), and (17), respectively; and

(B) by inserting after paragraph (1) the following:

"(2) CONTINGENT COMMITMENT.—The term 'contingent commitment' means a commitment to obligate an amount from future available budget authority, but is not an obligation of the Federal Government.".

(3) MASTER CREDIT AGREEMENT.—Section 601(a) (as amended by paragraph (2)(A) of this subsection) is further amended by inserting after paragraph (7) the following:

"(8) MASTER CREDIT AGREEMENT.—The term 'master credit agreement' means an agreement entered into by and between the Secretary and an obligor for a project that—

"(A) makes contingent commitments of one or more secured loans or other Federal credit instruments at future dates, subject to the provision of future budget authority;

"(B) establishes the amounts and general terms and conditions of such secured loans or other Federal credit instruments;

"(C) identifies the dedicated revenue sources that will secure the repayment of such secured loans or other Federal credit instruments, which may differ by project; and

"(D) provides for the obligation of funds for such a secured loan or other Federal credit instrument, subject to the provision of future budget authority, for a project included in the agreement after all requirements under this section have been met for the project.".

(4) OBLIGOR.—Section 601(a)(9) (as redesignated by paragraph (2)(A) of this subsection) is amended by inserting "limited liability company," after "corporation,".

(5) PROJECT.—Section 601(a)(10) (as redesignated by paragraph (2)(A) of this subsection) is amended—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting a semicolon; and

(C) by adding at the end the following:

"(E) a program of related transportation projects that—

"(i) are coordinated to achieve a common transportation goal;

"(ii) are eligible for funding under this title or chapter 53 of title 49; and

"(iii) together receive not more than 30 percent of their funding for capital costs from Federal grant funds made available under this title or chapter 53 of title 49; and

"(F) a highway, transit, or pedestrian project, or grouping of projects, that—

"(i) improves mobility; and

"(ii) is located within the station area of a transit, passenger rail, or intercity bus station.".

(6) RURAL INFRASTRUCTURE PROJECT.—Section 601(a) (as amended by paragraph (2)(A) of this subsection) is further amended by inserting after paragraph (12) the following:

"(13) RURAL INFRASTRUCTURE PROJECT.—The term 'rural infrastructure project' means a surface transportation infrastructure project located in any area other than an urbanized area that has a population of greater than 250,000 inhabitants.".

(7) SUBSIDY AMOUNT.—Section 601(a)(16) (as redesignated by paragraph (2)(A) of this subsection) is amended by inserting ", or other source of funds provided pursuant to section 608(c)(2)," after "budget authority".

(b) PROJECT APPLICATIONS AND DETERMINATIONS OF ELIGIBILITY.—

(1) IN GENERAL.—Section 602 is amended to read as follows:

"§ 602. Project applications and determinations of eligibility

"(a) PROJECT APPLICATIONS.—

"(1) IN GENERAL.—A State, local government, agency or instrumentality of a State or local government, public authority, private party to a public-private partnership, or any other legal entity undertaking a project may submit to the Secretary an application requesting financial assistance under this chapter for the project.

"(2) MASTER CREDIT AGREEMENTS.—An application submitted under paragraph (1) may request that financial assistance under this chapter be provided under a master credit agreement.

"(3) APPLICATIONS WHERE OBLIGOR WILL BE IDENTIFIED LATER.—A State, local government, agency or instrumentality of a State or local government, or public authority may submit an application to the Secretary under paragraph (1) under which a private party to a public-private partnership will be the obligor and will be identified later through completion of a procurement and selection of the private party.

"(b) ELIGIBILITY.—

"(1) APPROVAL.—The Secretary shall approve an application submitted under subsection (a)(1) for each project that meets the criteria specified in paragraph (2).

"(2) CRITERIA.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

"(A) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programmatic requirements of sections 5203 and 5204 of title 49—

"(i) in the case of an application for financial assistance to be provided under a master credit agreement, at such time as credit assistance is provided for the project pursuant to the master credit agreement; and

"(ii) in the case of any other project application, at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

"(B) CREDITWORTHINESS.—

"(i) IN GENERAL.—The project shall satisfy applicable creditworthiness standards, including, at a minimum—

"(I) a rate covenant, if applicable;

"(II) adequate coverage requirements to ensure repayment;

"(III) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

"(IV) a rating from at least 2 rating agencies on the Federal credit instrument.

"(ii) AMOUNTS LESS THAN $75,000,000.—Notwithstanding clauses (i)(III) and (i)(IV), if the senior debt and Federal credit instrument is for an amount less than $75,000,000, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

"(iii) FEDERAL CREDIT INSTRUMENTS THAT ARE THE SENIOR DEBT.—Notwithstanding clauses (i)(III) and (i)(IV), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies.

"(C) ELIGIBLE PROJECT COSTS.—The eligible costs of the project—

"(i) in the case of a project described in section 601(a)(9)(F) or a project principally involving the installation of an intelligent transportation system, shall be reasonably anticipated to equal or exceed $15,000,000;

"(ii) in the case of a project for which financial assistance will be provided under a master credit agreement, shall be reasonably anticipated to equal or exceed $1,000,000,000;

"(iii) in the case of a rural infrastructure project, shall be reasonably anticipated to equal or exceed $25,000,000; and

"(iv) in the case of any other project, shall be reasonably anticipated to equal or exceed the lesser of—

"(I) $50,000,000; or

"(II) 33⅓ percent of the amount apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to the State in which the project is located for Federal-aid highway and highway safety construction programs for the most recently completed fiscal year.

"(D) DEDICATED REVENUE SOURCES.—The Federal credit instrument for the project shall be repayable, in whole or in part, from tolls, user fees, payments owing to the obligor under a public-private partnership, or other dedicated revenue sources that also secure or fund the project obligations.

"(E) REGIONAL SIGNIFICANCE.—The project shall be regionally significant (as defined in regulations implementing sections 134 and 135 (as in effect on the day before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012)) or otherwise significantly enhance the national transportation system.

"(F) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project undertaken by an entity that is not a State or local government (or an agency or instrumentality of a State or local government), the project shall be publicly sponsored as provided under subsection (a).

"(G) BENEFICIAL EFFECTS.—The Secretary shall determine that financial assistance for the project under this chapter will—

"(i) foster an innovative public-private partnership and attract private debt or equity investment for the project;

"(ii) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the project's life cycle costs, including debt service costs; and

"(iii) reduce the contribution of Federal grant assistance for the project.

"(H) PROJECT READINESS.—The applicant shall demonstrate that the contracting process for construction of the project can be commenced not later than 90 days after the date on which a Federal credit instrument is secured for the project under this chapter.

"(c) PRELIMINARY RATING OPINION LETTER.—For purposes of subsection (b)(2)(B), the Secretary shall require each applicant for a project to provide a preliminary rating opinion letter from at least 1 rating agency indicating that the project's senior obligations, which may consist, in whole or in part, of the Federal credit instrument, have the potential to achieve an investment-grade rating.

"(d) APPROVAL OF APPLICATIONS AND FUNDING.—

"(1) IN GENERAL.—The Secretary shall—

"(A) approve applications for projects that meet the criteria specified in subsection (b)(2) in the order in which the Secretary receives the applications; and

"(B) commit or conditionally commit budget authority for projects, out of amounts made available to carry out this chapter for a fiscal year, in the order in which the Secretary approves the applications for such projects.

"(2) INSUFFICIENT FUNDS.—If the Secretary approves an application submitted under subsection (a)(1) for a project in a fiscal year, but is unable to provide financial assistance for the project in that fiscal year as a result of prior commitments or conditional commitments of budget authority under this chapter, the Secretary shall provide the project sponsor with the option of receiving such financial assistance as soon as sufficient budget authority is made available to carry out this chapter in a subsequent fiscal year.

"(e) PROCEDURES FOR DETERMINING PROJECT ELIGIBILITY.—

"(1) ESTABLISHMENT.—The Secretary shall establish procedures for—

"(A) processing applications received under subsection (a)(1) requesting financial assistance for projects; and

"(B) approving or disapproving the applications based on whether the projects meet the criteria specified in subsection (b)(2).

"(2) APPLICATION PROCESSING PROCEDURES.—The procedures shall meet the following requirements:

"(A) The procedures may not restrict when applications may be filed.

"(B) The procedures shall ensure that—

"(i) the Secretary will provide written notice to an applicant, on or before the 15th day following the date of receipt of the applicant's application, informing the applicant of whether the application is complete;

"(ii) if the application is complete, the Secretary will provide written notice to the applicant, on or before the 60th day following the date of issuance of written notice for the application under clause (i), informing the applicant of whether the Secretary has approved or disapproved the application;

"(iii) if the application is not complete, the Secretary will provide written notice to the applicant, together with the written notice issued for the application under clause (i), informing the applicant of the information and materials needed to complete the application; and

"(iv) if the Secretary does not provide written notice to an applicant under clause (i) in the 15-day period specified in clause (i)—

"(I) the applicant's application is deemed complete; and

"(II) the Secretary will provide written notice to the applicant, on or before the 60th day following the last day of such 15-day period, informing the applicant of whether the Secretary has approved or disapproved the application.

"(C) The procedures may not use eligibility criteria that are supplemental to those established by this chapter.

"(D) In accordance with subsection (b)(1), the procedures shall require approval of an application if the project meets the eligibility criteria specified in subsection (b)(2).

"(E) The procedures shall require that any written notice of disapproval of an application identify the eligibility criteria that were not satisfied and contain an explanation of the deficiencies that resulted in failure to meet such criteria.

"(3) SPECIAL RULES FOR MASTER CREDIT AGREEMENTS.—The Secretary shall issue special rules for—

"(A) processing applications under which financial assistance will be provided under a master credit agreement; and

"(B) approving or disapproving such applications based on whether the proposed project or program of related projects meets the applicable eligibility criteria specified in section 601(a)(7).

"(f) APPLICATION APPROVAL.—Approval of an application for a project under subsection (a)(1) qualifies the project for execution of a conditional term sheet establishing a conditional commitment of credit assistance.

"(g) FEDERAL REQUIREMENTS.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for public transportation projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

"(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(h) DEVELOPMENT PHASE ACTIVITIES.—Any credit instrument secured under this chapter may be used to finance 100 percent of the cost of development phase activities as described in section 601(a)(1)(A) if the total amount of the credit instrument does not exceed the maximum amount for such instrument prescribed in this chapter.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 6 is amended by striking the item relating to section 602 and inserting the following:

"602. Project applications and determinations of eligibility.".

(c) SECURED LOANS.—

(1) IN GENERAL.—

(A) APPROVAL OF PROJECTS.—Section 603(1) is amended by striking "selected" each place it appears and inserting "approved".

(B) AGREEMENTS.—Section 603(a)(1) is amended in the matter preceding subparagraph (A) by inserting ", including master credit agreements," after "agreements".

(C) RISK ASSESSMENT.—Section 603(a)(3) is amended by striking "602(b)(2)(B)" and inserting "602(c)".

(2) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—Section 603(b)(1) is amended by inserting "are consistent with this chapter and its purpose and that" before "the Secretary determines appropriate.".

(B) MAXIMUM AMOUNTS.—Section 603(b)(2) is amended to read as follows:

"(2) MAXIMUM AMOUNTS.—The amount of the secured loan may not exceed 49 percent of the reasonably anticipated eligible project costs.".

(C) PAYMENT.—Section 603(b)(3)(A)(i) is amended by inserting "payments owing to the obligor under a public-private partnership," before "or other dedicated revenue sources".

(D) NONSUBORDINATION.—Section 603(b)(6) is amended by inserting after "project obligations" the following: "entered into after the date on which the agreement to provide the secured loan is entered into under this section (except that such obligations do not include project obligations issued to refund prior project obligations or project obligations not contemplated by the parties at the time)".

(d) LINES OF CREDIT.—

(1) APPROVAL OF PROJECTS.—Section 604(a)(1) is amended by striking "selected" and inserting "approved".

(2) RISK ASSESSMENT.—Section 604(a)(3) is amended by striking "602(b)(2)(B)" and inserting "602(c)".

(3) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—Section 604(b)(1) is amended by inserting "are consistent with this chapter and its purpose and that" before "the Secretary determines appropriate.".

(B) MAXIMUM AMOUNTS.—Section 604(b)(2) is amended to read as follows:

"(2) MAXIMUM AMOUNTS.—The total amount of the line of credit may not exceed 49 percent of the reasonably anticipated eligible project costs.".

(C) SECURITY.—Section 604(b)(5)(A)(i) is amended by inserting "payments owing to the obligor under a public-private partnership," before "or other dedicated revenue sources".

(D) NONSUBORDINATION.—Section 604(b)(8) is amended by inserting after "project obligations" the following: "entered into after the date on which the agreement to provide the direct loan is entered into under this section (except that such obligations do not include project obligations issued to refund prior project obligations or project obligations not contemplated by the parties at the time)".

(E) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—Section 604(b)(10) is amended by striking "33 percent" and inserting "49 percent".

(e) PROGRAM ADMINISTRATION.—Section 605 is amended by adding at the end the following:

"(e) EXPEDITED PROCESSING.—The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance under this chapter.".

(f) FUNDING.—

(1) IN GENERAL.—Section 608(a)(1) is amended to read as follows:

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) to carry out this chapter $1,000,000,000 for each of fiscal years 2013 through 2016.".

(2) ADMINISTRATIVE COSTS.—Section 608(a)(3) is amended by striking "$2,200,000 for each of fiscal years 2005 through 2009" and inserting "$3,250,000 for each of fiscal years 2013 through 2016".

(3) PROJECTS UNDER A MASTER CREDIT AGREEMENT.—Section 608(a) is amended by adding at the end the following:

"(4) PROJECTS UNDER A MASTER CREDIT AGREEMENT.—The Secretary may commit or conditionally commit to projects covered by master credit agreements not more than 15 percent of the amount of budget authority for each fiscal year under paragraph (1). This limitation does not apply to a project under a master credit agreement that has received final credit approval.".

(4) EXHAUSTION OF AVAILABILITY.—Section 608 is amended by adding at the end the following:

"(c) EXHAUSTION OF AVAILABILITY.—

"(1) NOTICE OF EXHAUSTION.—Whenever the Secretary fully commits budget authority available in a fiscal year under subparagraph (a)(1), the Secretary shall—

"(A) publish notice of that fact in the Federal Register; and

"(B) deliver written notice of that fact to the applicants under all approved and pending applications.

"(2) ELECTION TO USE OTHER SOURCES FOR SUBSIDY AMOUNT.—An applicant may elect in its application or at any time after receipt of such notice to pay the subsidy amount from available sources other than the budget authority available in a fiscal year under subparagraph (a)(1), including from Federal assistance available to the applicant under this title or chapter 53 of title 49.

"(d) USE OF UNALLOCATED FUNDS.—

"(1) DISTRIBUTION AMONG STATES.—On September 1 of each fiscal year, the Secretary shall distribute any remaining budget authority made available in subsection (a)(1) among the States in the ratio that—

"(A) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to each State for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year; bears to

"(B) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to all States for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year.

"(2) ELIGIBLE PURPOSES.—Such budget authority shall be available for any purpose eligible for funding under section 133.".

SEC. 1202. STATE INFRASTRUCTURE BANK PROGRAM.

(a) FUNDING.—

(1) IN GENERAL.—Section 610(d) is amended—

(A) by striking "fiscal years 2005 through 2009" each place that it appears and inserting "fiscal years 2013 through 2016"; and

(B) by striking "10 percent" each place that it appears and inserting "15 percent".

(2) HIGHWAY ACCOUNTS.—Section 610(d)(1) is amended—

(A) in subparagraph (A) by striking "and" at the end;

(B) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) 100 percent of the funds apportioned to the State for each of fiscal years 2013 through 2016 under section 611.".

(b) PROGRAM ADMINISTRATION.—Section 610(k) is amended by striking "fiscal years 2005 through 2009" and inserting "fiscal years 2013 through 2016".

SEC. 1203. STATE INFRASTRUCTURE BANK CAPITALIZATION.

(a) IN GENERAL.—Chapter 6 is amended by adding at the end the following:

"§ 611. State infrastructure bank capitalization

"(a) APPORTIONMENT OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion amounts made available to carry out this section for a fiscal year among the States in the ratio that—

"(1) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to each State for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year; bears to

"(2) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to all States for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year.

"(b) ELIGIBLE USES OF FUNDING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds apportioned to a State under subsection (a) shall be used by the State to make capitalization grants to the highway account of the State's infrastructure bank established under section 610.

"(2) FISCAL YEARS 2013 AND 2014.—Funds apportioned to a State under subsection (a) for fiscal years 2013 and 2014 may be used by the State for eligible projects on the National Highway System, as described in section 119(d).

"(c) REAPPORTIONMENT OF FUNDS.—For fiscal year 2015 and each fiscal year thereafter, if by August 1 of the fiscal year a State does not obligate the funds apportioned to the State for the fiscal year under subsection (a) for providing capitalization grants described in subsection (b), the Secretary shall reapportion the remaining funds among those States that—

"(1) did obligate before such date all of the funds apportioned to the State for the fiscal year under subsection (a); and

"(2) certify to the Secretary that the State will use the additional funds to make capitalization grants described in subsection (b) before the end of the fiscal year.

"(d) LIMITATION.—Any reapportionment of funds pursuant to subsection (d) shall not require a recalculation of percentages under section 105.

"(e) APPLICABILITY OF FEDERAL LAW.—The requirements referred to in section 610(h) shall apply to any funds apportioned under this section.

"(f) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account) to carry out this section $750,000,000 for each of fiscal years 2013 through 2016.

"(2) CONTRACT AUTHORITY.—Funds made available under paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 6 is amended by adding at the end the following:

"611. State infrastructure bank capitalization.".

SEC. 1204. TOLLING.

(a) AMENDMENT TO TOLLING PROVISION.—Section 129(a) is amended to read as follows:

"(a) BASIC PROGRAM.—

"(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the provisions of this section, Federal participation shall be permitted on the same basis and in the same manner as construction of toll-free highways is permitted under this chapter in the—

"(A) initial construction of a toll highway, bridge, or tunnel or approach thereto;

"(B) initial construction of one or more lanes or other improvements that increase capacity of a highway, bridge, or tunnel (other than a highway on the Interstate System) and conversion of that highway, bridge, or tunnel to a tolled facility;

"(C) initial construction of one or more lanes or other improvements that increase the capacity of a highway, bridge, or tunnel on the Interstate System and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction;

"(D) reconstruction, resurfacing, restoration, rehabilitation, or replacement of a toll highway, bridge, or tunnel or approach thereto;

"(E) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

"(F) reconstruction, restoration, or rehabilitation of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility;

"(G) reconstruction, restoration, or rehabilitation of a highway on the Interstate System if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after reconstruction, restoration, or rehabilitation is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before reconstruction, restoration or rehabilitation;

"(H) conversion of a high occupancy vehicle lane on a highway, bridge, or tunnel to a toll facility; and

"(I) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under this paragraph.

"(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach thereto constructed under this subsection must—

"(A) be publicly owned; or

"(B) be privately owned if the public authority with jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with a private person or persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

"(3) LIMITATIONS ON USE OF REVENUES.—

"(A) IN GENERAL.—A public authority with jurisdiction over a toll facility shall use all toll revenues received from operation of the toll facility only for—

"(i) debt service with respect to the projects on or for which the tolls are authorized, including funding of reasonable reserves and debt service on refinancing;

"(ii) reasonable return on investment of any private person financing the project, as determined by the State or interstate compact of States concerned;

"(iii) any costs necessary for the improvement and proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation;

"(iv) if the toll facility is subject to a public-private partnership agreement, payments that the party holding the right to toll revenues owes to the other party under the public-private partnership agreement; and

"(v) if the public authority certifies annually that the tolled facility is being adequately maintained, the public authority may use toll revenues for any other purpose for which Federal funds may be obligated by a State under this title.

"(B) ANNUAL AUDIT.—A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of such audits to the Secretary. Upon reasonable notice, the public authority shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.

"(C) NONCOMPLIANCE.—If the Secretary concludes that a public authority has not complied with the limitations on the use of revenues described in subparagraph (A), the Secretary may require the public authority to discontinue collecting tolls until an agreement with the Secretary is reached to achieve compliance with the limitation on the use of revenues described in subparagraph (A).

"(4) LIMITATIONS ON CONVERSION OF HIGH OCCUPANCY VEHICLE FACILITIES ON INTERSTATE SYSTEM.—

"(A) IN GENERAL.—A public authority with jurisdiction over a high occupancy vehicle facility on the Interstate System may undertake reconstruction, restoration, or rehabilitation under subsection (a)(1)(G) on the facility, and may levy tolls on vehicles, excluding high occupancy vehicles, using the reconstructed, restored, or rehabilitated facility, if the public authority—

"(i) in the case of a high occupancy vehicle facility that affects a metropolitan area, submits to the Secretary a written assurance that the metropolitan planning organization designated under section 5203 of title 49 for the area has been consulted concerning the placement and amount of tolls on the converted facility;

"(ii) develops, manages, and maintains a system that will automatically collect the toll; and

"(iii) establishes policies and procedures to—

"(I) manage the demand to use the facility by varying the toll amount that is charged; and

"(II) enforce sanctions for violations of use of the facility.

"(B) EXEMPTION FROM TOLLS.—In levying tolls on a facility under subparagraph (A), a public authority may designate classes of vehicles that are exempt from the tolls or charge different toll rates for different classes of vehicles.

"(5) SPECIAL RULE FOR FUNDING.—In the case of a toll facility under the jurisdiction of a public authority of a State (other than the State transportation department), upon request of the State transportation department and subject to such terms and conditions as such department and public authority may agree, the Secretary, working through the State department of transportation, shall reimburse such public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as such department would be reimbursed if such project was being carried out by such department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in such State on which the project is being carried out.

"(6) LIMITATION ON FEDERAL SHARE.—The Federal share payable for a project described in paragraph (1) shall be a percentage determined by the State but not to exceed 80 percent.

"(7) MODIFICATIONS.—If a public authority (including a State transportation department) with jurisdiction over a toll facility subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991, requests modification of such agreement, the Secretary shall modify such agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

"(8) LOANS.—

"(A) IN GENERAL.—Using amounts made available under this title, a State may loan to a public or private entity constructing or proposing to construct under this section a toll facility or non-toll facility with a dedicated revenue source an amount equal to all or part of the Federal share of the cost of the project if the project has a revenue source specifically dedicated to it. Dedicated revenue sources for non-toll facilities include excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, and such other dedicated revenue sources as the Secretary determines appropriate.

"(B) COMPLIANCE WITH FEDERAL LAWS.—As a condition of receiving a loan under this paragraph, the public or private entity that receives the loan shall ensure that the project will be carried out in accordance with this title and any other applicable Federal law, including any applicable provision of a Federal environmental law.

"(C) SUBORDINATION OF DEBT.—The amount of any loan received for a project under this paragraph may be subordinated to any other debt financing for the project.

"(D) OBLIGATION OF FUNDS LOANED.—Funds loaned under this paragraph may only be obligated for projects under this paragraph.

"(E) REPAYMENT.—The repayment of a loan made under this paragraph shall commence not later than 5 years after date on which the facility that is the subject of the loan is open to traffic.

"(F) TERM OF LOAN.—The term of a loan made under this paragraph shall not exceed 30 years from the date on which the loan funds are obligated.

"(G) INTEREST.—A loan made under this paragraph shall bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible.

"(H) REUSE OF FUNDS.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

"(i) for any purpose for which the loan funds were available under this title; and

"(ii) for the purchase of insurance or for use as a capital reserve for other forms of credit enhancement for project debt in order to improve credit market access or to lower interest rates for projects eligible for assistance under this title.

"(I) GUIDELINES.—The Secretary shall establish procedures and guidelines for making loans under this paragraph.

"(9) STATE LAW PERMITTING TOLLING.—If a State does not have a highway, bridge, or tunnel toll facility as of the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, before commencing any activity authorized under this section, the State must have in effect a law that permits tolling on a highway, bridge, or tunnel.

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

"(A) HIGH OCCUPANCY VEHICLE; HOV.—The term 'high occupancy vehicle' or 'HOV' means a vehicle with no fewer than 2 occupants.

"(B) INITIAL CONSTRUCTION.—The term 'initial construction' means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic and does not include any improvement to a highway, bridge, tunnel, or other facility after it is open to traffic.

"(C) PUBLIC AUTHORITY.—The term 'public authority' means a State, interstate compact of States, or public entity designated by a State.

"(D) TOLL FACILITY.—The term 'toll facility' means a toll highway, bridge, or tunnel or approach thereto constructed under this subsection.".

(b) ELECTRONIC TOLL COLLECTION INTEROPERABILITY REQUIREMENTS.—Not later than 2 years after the date of enactment of this Act, all toll facilities on the Federal-aid highways shall implement technologies or business practices that provide for the interoperability of electronic toll collection programs.

SEC. 1205. HOV FACILITIES.

(a) HOV EXCEPTIONS.—Section 166(b)(5) is amended—

(1) in subparagraphs (A) and (B) by striking "2009" and inserting "2016"; and

(2) in subparagraph (C)—

(A) by striking "subparagraph (B)" and inserting "this paragraph"; and

(B) by inserting "or equal to" after "less than".

(b) REQUIREMENTS APPLICABLE TO TOLLS.—Section 166(c)(3) is amended to read as follows:

"(3) TOLL REVENUE.—Toll revenue collected under this section is subject to the requirements of section 129(a)(3).".

(c) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—Section 166(d)(2) is amended by adding at the end the following:

"(D) MAINTENANCE OF OPERATING PERFORMANCE.—Not later than 6 months after a facility has been determined to be degraded pursuant to the standard specified in subparagraph (B), the State agency with jurisdiction over the facility shall bring the facility into compliance with the minimum average operating speed performance standard through changes to operation of the facility, including—

"(i) increasing the occupancy requirement for HOV lanes;

"(ii) varying the toll charged to vehicles allowed under subsection (b) to reduce demand;

"(iii) discontinuing allowing non-HOV vehicles to use HOV lanes under subsection (b); or

"(iv) increasing the available capacity of the HOV facility.".

SEC. 1206. PUBLIC-PRIVATE PARTNERSHIPS.

(a) BEST PRACTICES.—The Secretary shall compile, and make available to the public on the Internet Web site of the Department, best practices on how States, public transportation agencies, and other public officials can work with the private sector in the development, financing, construction, and operation of transportation facilities.

(b) CONTENTS.—The best practices shall include polices and techniques to ensure that the interests of the traveling public and State and local governments are protected in any agreement entered into with the private sector for the development, financing, construction, and operation of transportation facilities.

(c) TECHNICAL ASSISTANCE.—The Secretary, upon request, may provide technical assistance to States, public transportation agencies, and other public officials regarding proposed public-private partnership agreements for the development, financing, construction, and operation of transportation facilities, including assistance in analyzing whether the use of a public-private partnership agreement would provide value compared with traditional public delivery methods.

(d) STANDARD TRANSACTION CONTRACTS.—

(1) DEVELOPMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop standard public-private partnership transaction model contracts for the most popular types of public-private partnerships for the development, financing, construction, and operation of transportation facilities.

(2) USE.—The Secretary shall encourage States, public transportation agencies, and other public officials to use the model contracts as a base template when developing their own public-private partnership agreements for the development, financing, construction, and operation of transportation facilities.

Subtitle C—Highway Safety

SEC. 1301. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

Section 148 is amended to read as follows:

"§ 148. Highway safety improvement program

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

"(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

"(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term 'highway safety improvement project' means a project consistent with an applicable State strategic highway safety plan that—

"(A) corrects or improves a roadway feature that constitutes a hazard to any road users; or

"(B) addresses any other highway safety problem.

"(3) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term 'project to maintain minimum levels of retroreflectivity' means a project undertaken pursuant to the provisions of the Manual on Uniform Traffic Control Devices that require the use of an assessment or management method designed to maintain highway sign or pavement marking retroreflectivity at or above minimum levels prescribed in the Manual.

"(4) ROAD USERS.—The term 'road users' means motor vehicle drivers and passengers, public transportation operators and users, truck drivers, bicyclists, motorcyclists, and pedestrians, including persons with disabilities.

"(5) SAFETY DATA.—The term 'safety data' includes crash, roadway, driver licensing, and traffic data with respect to all public roads and, for highway-rail grade crossings, data on the characteristics of highway and train traffic.

"(6) SAFETY PROJECT UNDER ANY OTHER SECTION.—

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

"(B) INCLUSION.—The term 'safety project under any other section' includes—

"(i) projects consistent with an applicable State strategic highway safety plan that promote the awareness of the public and educate the public concerning highway safety matters (including motorcycle safety);

"(ii) projects to enforce highway safety laws; and

"(iii) projects to provide infrastructure and equipment to support emergency services.

"(7) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means a program of highway safety improvement projects carried out as part of the statewide transportation improvement program under section 5204(g) of title 49.

"(8) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a comprehensive, data-driven safety plan developed in accordance with subsection (c)(2).

"(b) IN GENERAL.—The Secretary shall carry out a highway safety improvement program that is consistent with achieving a significant reduction in traffic fatalities and serious injuries on all public roads.

"(c) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program that—

"(A) includes a set of projects that are consistent with the State strategic highway safety plan of the State;

"(B) satisfies the requirements of this section; and

"(C) is consistent with the State's statewide transportation improvement program under section 5204(g) of title 49.

"(2) STRATEGIC HIGHWAY SAFETY PLAN.—As part of the State highway safety improvement program of the State, each State shall have in effect, update at least every 2 years, and submit to the Secretary a State strategic highway safety plan that—

"(A) is developed after consultation with—

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

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

"(iii) representatives of major modes of transportation;

"(iv) State and local traffic enforcement officials;

"(v) representatives of entities conducting a Federal or State motor carrier safety program;

"(vi) motor vehicle administration agencies;

"(vii) a highway-rail grade crossing safety representative of the Governor of the State; and

"(viii) other major Federal, State, tribal, regional, and local safety stakeholders;

"(B) is approved by the Governor of the State or a responsible State agency;

"(C) defines State safety goals, including with respect to performance measures established under section 5206 of title 49;

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

"(E) analyzes and makes effective use of State, regional, and local safety data, including data from the safety data system required under subsection (e);

"(F) considers the results of Federal, State, regional, and local transportation and highway safety planning processes; and

"(G) considers the safety needs of, and high-fatality segments of, public roads.

"(3) IMPLEMENTATION.—

"(A) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program of the State, each State shall, including through use of the safety data system required under subsection (e)—

"(i) identify roadway features that constitute a hazard to road users;

"(ii) identify highway safety improvement projects on the basis of crash history (including crash rates), crash potential, or other data-supported means;

"(iii) establish the relative severity of the risks of roadway features based on crash, injury, fatality, traffic volume, and other relevant data (including the number and rates of crashes, injuries, and fatalities);

"(iv) identify the 100 most dangerous roads in the State, including specific intersections and sections of roads, based on the risk factors described in clause (iii);

"(v) consider whether highway safety improvement projects maximize opportunities to advance safety; and

"(vi) in conjunction with the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration, evaluate the progress made each year in achieving State safety goals identified in the State strategic highway safety plan.

"(B) SCHEDULE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—As part of the State highway safety improvement program of the State, each State shall, including through use of the safety data system required under subsection (e)—

"(i) identify highway safety improvement projects;

"(ii) determine priorities for the correction of roadway features that constitute a hazard to road users as identified through safety data analysis; and

"(iii) establish and implement a schedule of highway safety improvement projects to address roadway features identified as constituting a hazard to road users.

"(4) ELIGIBLE PROJECTS.—

"(A) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

"(i) any highway safety improvement project on any public road or publicly owned pathway or trail;

"(ii) any project to put in effect or improve the safety data system required under subsection (e), without regard to whether the project is included in an applicable State strategic highway safety plan;

"(iii) any project to maintain minimum levels of retroreflectivity with respect to a public road, without regard to whether the project is included in an applicable State strategic highway safety plan;

"(iv) any project for roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Highway Design Handbook for Older Drivers and Pedestrians' (Publication number FHWA RD–01–103), or any successor publication; or

"(v) as provided in subsection (d), other projects.

"(B) USE OF OTHER FUNDING FOR SAFETY IMPROVEMENT PROJECTS.—

"(i) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(ii) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using, for a highway safety improvement project, funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(C) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

"(i) PROHIBITION.—A State may not obligate funds apportioned to the State under section 104(b) to carry out any program to purchase, operate, or maintain an automated traffic enforcement system.

"(ii) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this subparagraph, the term 'automated traffic enforcement system' means automated technology that monitors compliance with traffic laws.

"(5) UPDATED STATE STRATEGIC HIGHWAY SAFETY PLAN REQUIRED.—

"(A) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) for the second fiscal year beginning after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012 only if the State has in effect and has submitted to the Secretary an updated State strategic highway safety plan that satisfies requirements under this subsection.

"(B) TRANSITION.—Before the second fiscal year beginning after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, a State may obligate funds apportioned to the State under section 104(b)(5) in a manner consistent with a State strategic highway safety plan of the State developed before such date of enactment.

"(d) FLEXIBLE FUNDING.—To further the implementation of a State strategic highway safety plan and the achievement of performance measures established under section 5206 of title 49, a State may use not more than 10 percent of the funds apportioned to the State under section 104(b)(5) for a fiscal year to carry out safety projects under any other section if—

"(1) the use is consistent with the State strategic highway safety plan of the State; and

"(2) the State certifies to the Secretary that the funds are being used for the most effective projects for making progress toward achieving performance measures established under section 5206 of title 49.

"(e) SAFETY DATA SYSTEM.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, each State, as part of the State highway safety improvement program of the State, shall have in effect a safety data system to—

"(A) collect and maintain a record of safety data with respect to all public roads in the State;

"(B) advance the capabilities of the State with respect to safety data collection, analysis, and integration;

"(C) identify roadway features that constitute a hazard to road users; and

"(D) perform safety problem identification and countermeasure analysis.

"(2) IMPROVEMENT EFFORTS.—Each State shall carry out projects, as needed, to ensure that the safety data system of the State enhances—

"(A) the timeliness, accuracy, completeness, uniformity, and accessibility of safety data with respect to all public roads in the State;

"(B) the ability of the State to integrate all safety data collected throughout the State;

"(C) the ability of State and national safety data systems to be compatible and interoperable;

"(D) the ability of the Secretary to observe and analyze national trends in crash rates, outcomes, and circumstances; and

"(E) the collection of data on crashes that involve a bicyclist or pedestrian.

"(3) EVALUATION OF IMPROVEMENT EFFORTS.—Each State shall collect and maintain a record of projects undertaken to improve the safety data system of the State and shall evaluate the effectiveness of such projects.

"(f) TRANSPARENCY.—A State shall make all plans and reports submitted to the Secretary under this section available to the public through—

"(1) the Internet Web site of the State transportation department of the State; or

"(2) such other means as the Secretary determines to be appropriate.

"(g) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to this section, or published in accordance with subsection (f), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

"(h) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—The Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(5) shall be 90 percent, unless a Federal share exceeding 90 percent would apply to the project under section 120 or 130.".

SEC. 1302. RAILWAY-HIGHWAY CROSSINGS.

(a) TRANSPARENCY OF STATE SURVEYS AND SCHEDULES WITH RESPECT TO RAILWAY-HIGHWAY CROSSINGS.—

(1) SURVEY AND SCHEDULE OF PROJECTS.—Section 130(d) is amended by adding at the end the following: "Each State shall make the surveys conducted and schedules implemented under this subsection available to the public on an appropriate Internet Web site of the State.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 1 year after the date of enactment of this Act.

(b) RAILWAY-HIGHWAY CROSSING INFORMATION.—Section 130 is amended by adding at the end the following:

"(m) RAILWAY-HIGHWAY CROSSING INFORMATION.—

"(1) PRIORITY LISTS AND ACTION PLANS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, each State shall compile and submit to the Secretary a report that includes—

"(i) a list of the 10 railway-highway crossings in the State that have the greatest need for safety improvements;

"(ii) an action plan that identifies projects and activities the State plans to carry out to improve safety at those railway-highway crossings; and

"(iii) a list of projects and activities the State carried out to improve safety at those railway-highway crossings during the 2-year period ending on the date on which the report is submitted to the Secretary.

"(B) UPDATES.—Each State shall update and submit to the Secretary, at least once every 2 years, the report of that State under subparagraph (A).

"(2) PUBLICATION OF REPORTS ON U.S. DOT WEB SITE.—The Secretary shall make the reports submitted under paragraph (1) available to the public on the Internet Web site of the Department of Transportation.

"(3) PUBLICATION OF REPORTS ON STATE WEB SITES.—Each State shall make the reports compiled under paragraph (1) available to the public on an appropriate Internet Web site of the State.

"(4) LIMITATION ON USE OF DATA IN JUDICIAL PROCEEDINGS.—Notwithstanding any other provision of law, any report, review, survey, schedule, list, data, information, or document of any kind compiled or collected pursuant to this subsection, including for the purpose of identifying, evaluating, or planning the safety enhancement of a potential accident site or railway-highway crossing pursuant to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such report, review, survey, schedule, list, data, information, or document.

"(5) NONCOMPLIANCE.—If the Secretary determines that a State is not in compliance with requirements under this subsection, the Secretary may withhold funding that would otherwise be apportioned to that State under this section.".

SEC. 1303. HIGHWAY WORKER SAFETY.

(a) POSITIVE PROTECTIVE MEASURES.—Not later than 60 days after the date of enactment of this Act, the Secretary shall modify section 630.1108(a) of title 23, Code of Federal Regulations, to ensure that—

(1) at a minimum, positive protective measures are used to separate workers on highway construction projects from motorized traffic in all work zones where traffic is present and where workers have no means of escape, including tunnels and bridges, unless an engineering analysis determines such measures are not necessary;

(2) temporary longitudinal traffic barriers are used to protect workers on highway construction projects in stationary work zones lasting 2 weeks or more if traffic is present, the traffic will be traveling at a speed of 45 miles per hour or more, and the nature of the work requires workers to be within 1 lane-width from the edge of a live travel lane, unless—

(A) an engineering analysis determines such barriers are not necessary; or

(B) the project is located—

(i) in a State with a population density of 20 or fewer persons per square mile;

(ii) outside of an urbanized area; and

(iii) on a roadway with an annual average daily traffic load that is less than 100 vehicles per hour; and

(3) when positive protective measures are necessary for a highway construction project, such measures are paid for on a unit pay basis, unless doing so would create a conflict with innovative contracting approaches, including a design-build contract or a performance-based contract, under which the contractor is paid to assume a certain risk allocation and payment is generally made on a lump sum basis.

(b) APPAREL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall modify regulations issued pursuant to section 1402 of SAFETEA–LU (23 U.S.C. 401 note)—

(1) to allow fire services personnel, who are subject to the regulations, to wear apparel meeting the high visibility requirements set forth in NFPA 1971–2007 (Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting); and

(2) to not require such personnel to wear apparel meeting requirements set forth in ANSI/ISEA 107–2004.

Subtitle D—Freight Mobility

SEC. 1401. NATIONAL FREIGHT POLICY.

(a) DEVELOPMENT.—Not later than 1 year after the date of enactment of this Act, and every 5 years thereafter, the Secretary, in consultation with interested public and private sector freight stakeholders, including representatives of ports, shippers, carriers, freight-related associations, the freight industry workforce, State transportation departments, and local governments, shall develop a 5-year National Freight Policy. Such policy shall be consistent with the State performance management process under section 5206(e)(1) of title 49, United States Code.

(b) CONTENTS.—The National Freight Policy shall—

(1) specify goals, objectives, and milestones with respect to the expansion of freight transportation capacity and the improvement of freight transportation infrastructure in the United States;

(2) specify programs, strategies, and projects that will assist in achieving the goals, objectives, and milestones specified under paragraph (1);

(3) specify the manner in which the programs, strategies, and projects specified under paragraph (2) will achieve the goals, objectives, and milestones specified under paragraph (1), including with respect to a 5-year timeframe for meeting the goals, objectives, and milestones;

(4) identify protocols to promote and ensure the implementation of the National Freight Policy; and

(5) identify a cooperative process, which includes State and local governments, for implementing the National Freight Policy.

(c) GOALS.—In developing the National Freight Policy, the Secretary shall consider the goals of—

(1) investing in freight transportation infrastructure to strengthen the economic competitiveness of the United States, reduce congestion, and increase productivity, particularly with respect to domestic industries and businesses that create high-value jobs;

(2) improving and maintaining existing freight transportation infrastructure to ensure that infrastructure meets appropriate standards;

(3) improving the capacity of freight infrastructure across different modes of transportation, reducing congestion, and increasing freight throughput;

(4) incorporating concepts of performance, innovation, competition, and accountability into the operation and maintenance of freight transportation infrastructure;

(5) increasing the usage and number of strategically-located, multi-modal freight transportation facilities to reduce congestion and emissions relating to highways in the United States;

(6) improving the safety of freight transportation;

(7) implementing new technologies to improve the coordination and efficiency of the movement of freight throughout the United States;

(8) improving methods for incorporating international trade estimates into transportation planning; and

(9) advancing the development of aerotropolis transportation systems, which are planned and coordinated multimodal freight and passenger transportation networks that, as determined by the Secretary, provide efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.

(d) REPORTING.—The Secretary shall include the National Freight Policy in the National Strategic Transportation Plan developed under section 5205 of title 49, United States Code.

(e) COMMODITY FLOW SURVEY.—The Secretary, in consultation with other relevant Federal agencies, shall make changes to the commodity flow survey (conducted by the Bureau of Transportation Statistics pursuant to section 111(c)(5) of title 49, United States Code) that the Secretary determines will reduce identified freight data gaps and deficiencies and assist in the evaluation of forecasts of transportation demand.

SEC. 1402. STATE FREIGHT ADVISORY COMMITTEES.

(a) IN GENERAL.—The Secretary shall encourage each State to establish a freight advisory committee consisting of a representative cross-section of public and private sector freight stakeholders, including representatives of ports, shippers, carriers, freight-related associations, the freight industry workforce, the State's transportation department, and local governments.

(b) ROLE OF COMMITTEE.—A freight advisory committee described in subsection (a) shall—

(1) advise the State on freight-related priorities, issues, projects, and funding needs;

(2) serve as a forum for discussion for State transportation decisions affecting freight mobility;

(3) communicate and coordinate regional priorities with other organizations;

(4) promote the sharing of information between the private and public sectors on freight issues; and

(5) participate in the development of the State's freight plan described in section 1403 of this Act.

SEC. 1403. STATE FREIGHT PLANS.

(a) IN GENERAL.—The Secretary shall encourage each State to develop a freight plan that provides a comprehensive plan for the State's immediate and long-range planning activities and investments with respect to freight.

(b) PLAN CONTENTS.—A freight plan described in subsection (a) shall include, at a minimum—

(1) an identification of significant freight system trends, needs, and issues with respect to the State;

(2) a description of the freight policies, strategies, and performance measures that will guide the State's freight-related transportation investment decisions;

(3) a description of how such plan will improve the ability of the State to meet the national freight goals established under section 1401 of this Act and the performance targets established under section 5206 of title 49, United States Code;

(4) evidence of consideration of innovative technologies and operational strategies, including intelligent transportation systems, that improve the safety and efficiency of freight movement; and

(5) for routes on which travel by heavy vehicles, including mining, agricultural, and timber vehicles, is projected to substantially deteriorate the condition of roadways, a description of improvements that may be required to reduce or impede such deterioration.

(c) RELATIONSHIP TO LONG-RANGE PLAN.—A freight plan described in subsection (a) may be developed separate from or incorporated into the statewide strategic long-range transportation plan required by section 5204 of title 49, United States Code.

SEC. 1404. TRUCKING PRODUCTIVITY.

(a) WEIGHT LIMITATIONS.—Section 127(a) is amended by adding at the end the following:

"(13) PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary may carry out a pilot program under which the Secretary may authorize up to 3 States to allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 126,000 pounds on segments on the Interstate System in the State.

"(B) REQUIREMENTS.—A State authorized under the pilot program under subparagraph (A) shall—

"(i) identify and submit to the Secretary for approval the segments on the Interstate System to be subject to the program and the configurations of vehicles to be allowed to operate under a special permit;

"(ii) allow vehicles subject to the program to operate on not more than 3 segments, which may be contiguous, of up to 25 miles each;

"(iii) require the loads of vehicles operating under a special permit to conform to such single axle, tandem axle, tridem axle, and bridge formula limits applicable in the State; and

"(iv) establish and collect a fee for vehicles operating under a special permit.

"(C) PROHIBITIONS.—The Secretary may prohibit the operation of a vehicle under a special permit if the Secretary determines that the operation poses an unreasonable safety risk based on an analysis of engineering data, safety data, or other applicable data.

"(D) DURATION.—The Secretary may authorize a State under the pilot program under subparagraph (A) for a period not to exceed 4 years.".

(b) ADDITIONAL VEHICLE WEIGHT PROVISIONS.—Section 127 is amended by adding at the end the following:

"(i) SPECIAL PERMITS DURING PERIODS OF EMERGENCY.—

"(1) IN GENERAL.—A State may issue special permits with respect to a major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to overweight vehicles and loads that can be easily dismantled or divided allowing operations on the Interstate System that would otherwise be prohibited under subsection (a), if—

"(A) the permits are issued in accordance with State law; and

"(B) the permits are issued exclusively to vehicles and loads that are delivering relief supplies in response to the major disaster or emergency.

"(2) EXPIRATION.—A permit issued with respect to a major disaster or emergency under paragraph (1) shall expire not later than 120 days after the date of the declaration of the major disaster or emergency as described in paragraph (1).

"(j) EMERGENCY VEHICLES.—

"(1) IN GENERAL.—Notwithstanding subsection (a), a State may not enforce against an emergency vehicle a weight limit of—

"(A) less than 24,000 pounds on a single steering axle;

"(B) less than 33,500 pounds on a single drive axle;

"(C) less than 62,000 pounds on a tandem axle; or

"(D) less than 52,000 pounds on a tandem rear drive steer axle, up to a maximum gross vehicle weight of 86,000 pounds.

"(2) EMERGENCY VEHICLE DEFINED.—In this subsection, the term 'emergency vehicle' means a vehicle designed to be used under emergency conditions—

"(A) to transport personnel and equipment; and

"(B) to support the suppression of fires or mitigation of other hazardous situations.".

(c) WAIVER OF HIGHWAY FUNDING REDUCTION.—The total amount of funds apportioned to a State under section 104(b)(1) of title 23, United States Code, for any period may not be reduced under section 127(a) of such title on the basis that the State authorizes a vehicle to operate on the Interstate System in the State in accordance with the amendments made by this section.

(d) LENGTH LIMITATIONS.—Section 31111 of title 49, United States Code, is amended—

(1) in subsection (a) by adding at the end the following:

"(5) TRAILER TRANSPORTER TOWING UNIT.—The term 'trailer transporter towing unit' means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

"(6) TOWAWAY TRAILER TRANSPORTER COMBINATION.—The term 'towaway trailer transporter combination' means a combination of vehicles consisting of a trailer transporter towing unit and 2 trailers or semitrailers—

"(A) with a total weight that does not exceed 26,000 pounds; and

"(B) in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers."; and

(2) in subsection (b)(1)—

(A) by striking subparagraph (A) and inserting the following:

"(A) imposes a vehicle length limitation, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f)) and those classes of qualifying Federal-aid primary system highways designated by the Secretary of Transportation under subsection (e), of—

"(i) less than 45 feet on a bus;

"(ii) less than 53 feet on a semitrailer operating in a truck tractor-semitrailer combination; or

"(iii) notwithstanding section 31112, less than 33 feet on a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination;";

(B) in subparagraph (E) by striking "; or" and inserting a semicolon;

(C) in subparagraph (F) by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(G) imposes a vehicle length limitation of less than 80 feet on a stinger steered automobile transporter with a rear overhand of less than 6 feet;

"(H) has the effect of imposing an overall length limitation of less than 82 feet on a towaway trailer transporter combination;

"(I) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on a trailer used exclusively or primarily for the transport of livestock; or

"(J) has the effect of prohibiting the use of a device designed by a bus manufacturer to affix to the rear of an intercity bus purchased after October 1, 2012, for use in carrying passenger baggage, if the device does not result in the bus exceeding 47 feet in total length.".

(e) ACCESS TO INTERSTATE SYSTEM.—Section 31114(a)(2) of title 49, United States Code, is amended by inserting "a towaway trailer transporter combination as defined in section 31111(a)," before "or any".

SEC. 1405. STUDY WITH RESPECT TO TRUCK SIZES AND WEIGHTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study with respect to truck sizes and weights in accordance with this section.

(2) SCOPE.—In conducting the study, the Secretary shall examine, in accordance with paragraph (3), the effect on principal arterial routes and National Highway System intermodal connectors that allowing nationwide operation of each covered truck configuration would have.

(3) CONTENTS.—In conducting the study, the Secretary shall—

(A) evaluate the effect on safety that allowing each covered truck configuration to operate would have, with consideration given to—

(i) vehicle operating characteristics under various conditions likely to be experienced during commercial operation;

(ii) changes in vehicle miles traveled due to increased vehicle hauling capacity;

(iii) shifts in freight between transportation modes;

(iv) crash rates; and

(v) vehicle stability and control;

(B) estimate—

(i) the effect on pavement performance that allowing each covered truck configuration to operate would have;

(ii) the effect on bridge reliability and service life that allowing each covered truck configuration to operate would have; and

(iii) the ability of each covered truck configuration to comply with the Federal bridge formula (as specified in section 127(a)(2) of title 23, United States Code);

(C) estimate the full cost responsibility associated with allowing each covered truck configuration to operate, including all costs relating to pavement and bridges, and examine methods available for recovering such cost responsibility;

(D) examine the ability of a representative sample of regions to meet repair and reconstruction needs related to allowing each covered truck configuration to operate;

(E) estimate—

(i) the extent to which freight would be diverted from other surface transportation modes to principal arterial routes and National Highway System intermodal connectors if each covered truck configuration is allowed to operate and the effect that any such diversion would have on other modes of transportation;

(ii) the effect that any such diversion would have on public safety, infrastructure, cost responsibility, fuel efficiency, and the environment;

(iii) the effect on the transportation network of the United States that allowing each covered truck configuration to operate would have; and

(iv) whether allowing each covered truck configuration to operate would result in an increase or decrease in the total number of trucks operating on principal arterial routes and National Highway System intermodal connectors; and

(F) identify all Federal rules and regulations impacted by changes in truck size and weight limits.

(b) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a).

(c) COVERED TRUCK CONFIGURATION DEFINED.—In this section, the term "covered truck configuration" means each of the following:

(1) A combination truck tractor-semitrailer—
(A) with 5 axles; and
(B) a gross weight of 88,000 pounds.

(2) A combination truck tractor-semitrailer—
(A) with 6 axles; and
(B) a gross weight of 97,000 pounds.

(3) Longer combination vehicles (as such term is defined in section 127(d)(4) of title 23, United States Code).

(4) Any other truck configuration the Secretary determines appropriate.

SEC. 1406. MAXIMUM WEIGHT INCREASE FOR IDLE REDUCTION TECHNOLOGY ON HEAVY DUTY VEHICLES.

Section 127(a)(12) is amended—

(1) in subparagraph (B) by striking "400" and inserting "550"; and

(2) in subparagraph (C)(ii) by striking "400-pound" and inserting "550-pound".

Subtitle E—Federal Lands and Tribal Transportation

SEC. 1501. FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.

Chapter 2 is amended by striking sections 201 through 203 and inserting the following:

"§ 201. General provisions

"(a) PURPOSE.—Recognizing the need for all Federal lands transportation facilities and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public road and transit facilities constructed with Federal assistance, the Secretary, in consultation with the Secretary of each Federal land management agency, shall establish and coordinate, in accordance with the requirements of this section, a uniform policy for all transportation facilities constructed under a covered program.

"(b) COVERED PROGRAM DEFINED.—In this section, the term 'covered program' means—

"(1) the tribal transportation program established under section 202; and

"(2) the Federal lands transportation program established under section 203.

"(c) AVAILABILITY OF FUNDS.—

"(1) AVAILABILITY.—Funds made available to carry out a covered program shall be available for contract—

"(A) upon apportionment; or

"(B) if no apportionment is required, on October 1 of the fiscal year for which authorized.

"(2) PERIOD OF AVAILABILITY.—Funds apportioned or allocated to carry out a covered program shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

"(3) AUTHORITY OF DEPARTMENT SECRETARIES.—

"(A) AUTHORITY TO INCUR OBLIGATIONS, APPROVE PROJECTS, AND ENTER INTO CONTRACTS.—The Secretary of a Department charged with the administration of funds made available to carry out a covered program may incur obligations, approve projects, and enter into contracts with respect to such funds.

"(B) CONTRACTUAL OBLIGATIONS.—A Secretary's action under subparagraph (A) shall be deemed to be a contractual obligation of the United States to pay the cost thereof, and the funds subject to the action shall be deemed to have been expended when so obligated.

"(4) EXPENDITURE.—Any funds made available to carry out a covered program for a fiscal year shall be deemed to have been expended if a sum equal to the total of the sums appropriated for the fiscal year and previous fiscal years have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated appropriations and be immediately available for expenditure.

"(5) AUTHORITY OF SECRETARY.—

"(A) OBLIGATING FUNDS FOR COVERED PROGRAMS.—Notwithstanding any other provision of law, either of the following actions shall be deemed to constitute a contractual obligation of the United States to pay the total eligible cost of any construction project funded under a covered program:

"(i) The authorization by the Secretary, or the Secretary of a Department charged with the administration of funds made available to carry out a covered program, of engineering and related work for the development, design, and acquisition associated with the project, whether performed by contract or agreement authorized by law.

"(ii) The approval by the Secretary, or the Secretary of a Department charged with the administration of funds made available to carry out a covered program, of plans, specifications, and estimates for the project.

"(B) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed to affect the application of the Federal share associated with a project undertaken under a covered program or to modify the point of obligation associated with Federal salaries and expenses.

"(6) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—To the extent that the Secretary is otherwise required to redistribute unused obligation authority appropriated for purposes other than section 202, a minimum of 10 percent of such unused obligation authority shall be allocated and distributed by the Secretary to entities eligible to receive funds under such section for purposes of funding competitively awarded high priority projects ensuring greater safe access to markets for American Indian and Alaska Native communities that are, relative to other American Indian and Alaska Native communities, more remotely located from product and essential service markets.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided by paragraph (2), the Federal share payable on account of a project carried out under a covered program shall be 100 percent of the total cost of the project.

"(2) OPERATING ASSISTANCE.—The Federal share payable, with amounts made available to carry out this chapter, on account of operating expenses for a project carried out under the Federal lands transportation program established under section 203 may not exceed 50 percent of the net operating costs, as determined by the Secretary.

"(e) TRANSPORTATION PLANNING.—

"(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each Federal land management agency, the Secretary shall implement transportation planning procedures for tribal transportation facilities and Federal lands transportation facilities that are consistent with the planning processes required under sections 5203 and 5204 of title 49.

"(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program developed as a part of the transportation planning process under this subsection shall be subject to approval by the Secretary, acting in coordination with the Secretary of the appropriate Federal land management agency.

"(3) INCLUSION IN OTHER PLANS.—Any project under a covered program that is regionally significant shall—

"(A) be developed in cooperation with appropriate States and metropolitan planning organizations; and

"(B) be included in—

"(i) plans for the covered program;

"(ii) appropriate State and metropolitan long-range transportation plans; and

"(iii) appropriate State and metropolitan transportation improvement programs.

"(4) INCLUSION IN STATE PROGRAMS.—A transportation improvement program that is approved by the Secretary as a part of the transportation planning process under this subsection shall be included in appropriate plans and programs of States and metropolitan planning organizations without further action on the transportation improvement program.

"(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each Federal land management agency, to the extent appropriate, shall have in effect safety, bridge, pavement, and congestion management systems in support of asset management for highways funded under a covered program.

"(6) DATA COLLECTION.—

"(A) IN GENERAL.—The Secretary of each Federal land management agency shall collect and report on the data that is necessary to implement a covered program, including at a minimum—

"(i) inventory and condition information on tribal roads and Federal lands highways; and

"(ii) bridge inspection and inventory information on any Federal bridge that is open to the public.

"(B) STANDARDS.—The Secretary, in coordination with the Secretary of each Federal land management agency, shall define collection and reporting data standards for purposes of subparagraph (A).

"(C) TRIBAL TRANSPORTATION PROGRAM.—Each Secretary collecting data under this paragraph relating to the tribal transportation program established under section 202 shall collect such data consistent with the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(7) ADMINISTRATIVE EXPENSES.—The Secretary may use up to 5 percent of the funds made available to carry out section 203 for a fiscal year for purposes of implementing the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies.

"(f) REFERENCES TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—In this chapter, the term 'Secretary', when used in connection with a Federal land management agency, means the Secretary of the department that contains the agency.

"§ 202. Tribal transportation program

"(a) IN GENERAL.—The Secretary shall carry out a tribal transportation program in accordance with the requirements of this section.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds made available to carry out the tribal transportation program shall be used by the Secretary and the Secretary of the Interior to pay for the following:

"(A) The covered costs of—

"(i) tribal roads;

"(ii) vehicular parking areas adjacent to tribal roads (which may include electric vehicle charging stations);

"(iii) pedestrian walkways and bicycle transportation facilities (as defined in section 217) on tribal lands; and

"(iv) roadside rest areas, including sanitary and water facilities, on tribal lands.

"(B) The costs of transportation projects eligible for assistance under this title that are within, or provide access to, tribal lands.

"(C) The costs of public transportation projects eligible for assistance under section 5311(b)(1) of title 49 that are within, or provide access to, tribal lands (without regard to whether the project is located in an urbanized area).

"(D) The costs of rehabilitation, restoration, and construction of interpretive signage at tribal roads.

"(E) The costs of acquisition of necessary scenic easements and scenic or historic sites associated with tribal roads.

"(2) COVERED COSTS DEFINED.—In paragraph (1), the term 'covered costs' means the costs of transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction.

"(3) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the Interior may enter into a contract or other appropriate agreement with respect to such activity with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(4) INDIAN LABOR.—Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1).

"(5) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall apply to construction or improvement of tribal transportation facilities.

"(6) ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—Of the funds made available to carry out the tribal transportation program for a fiscal year, up to 5 percent may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative expenses.

"(B) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the tribal transportation program to fund tribal technical assistance centers under section 504(b).

"(7) MAINTENANCE.—

"(A) USE OF FUNDS.—Notwithstanding any other provision of this title, of the funds allocated to an Indian tribe under the tribal transportation program for a fiscal year, the Indian tribe, or the Secretary with the consent of the affected Indian tribe, may use for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation) an amount that does not exceed the greater of—

"(i) 25 percent of the funds; or

"(ii) $500,000.

"(B) ROAD MAINTENANCE PROGRAMS ON INDIAN RESERVATIONS.—

"(i) BIA RESPONSIBILITY.—The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.

"(ii) FUNDING.—The Secretary of the Interior shall ensure that funding made available under this paragraph for maintenance of tribal transportation facilities for a fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

"(C) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

"(i) AUTHORITY TO ENTER INTO AGREEMENTS.—An Indian tribe and a State may enter into a road maintenance agreement under which the Indian tribe assumes the responsibilities of the State for tribal transportation facilities.

"(ii) NEGOTIATIONS.—Agreements entered into under clause (i)—

"(I) shall be negotiated between the State and the Indian tribe; and

"(II) shall not require the approval of the Secretary.

"(8) COOPERATION OF STATES AND COUNTIES.—

"(A) IN GENERAL.—The cooperation of States, counties, and other political subdivisions of States may be accepted in construction and improvement of tribal transportation facilities.

"(B) CREDITING OF FUNDS.—Any funds received from a State, county, or other political subdivision of a State for construction or improvement of tribal transportation facilities shall be credited to appropriations available for the tribal transportation program.

"(C) STATE USE OF FEDERAL FUNDS FOR TRIBAL TRANSPORTATION FACILITIES.—

"(i) IN GENERAL.—A State may provide a portion of Federal funds apportioned to the State under chapter 1 to an Indian tribe for an eligible tribal transportation facility.

"(ii) PROCEDURE.—If a State elects to provide funds to an Indian tribe under clause (i), the State shall transfer the funds back to the Secretary and the Secretary shall transfer the funds to the Indian tribe constructing or maintaining the eligible tribal transportation facility under an agreement pursuant to this paragraph.

"(iii) CONSTRUCTION RESPONSIBILITY.—Notwithstanding any other provision of law, if a State provides funds referred to in clause (i) to an Indian tribe—

"(I) the State shall not be responsible for constructing or maintaining a project carried out using the funds or for administering or supervising the project or funds during the applicable statute of limitations period of such State with respect to actions related to the construction of the project; and

"(II) the Indian tribe receiving the funds shall be responsible for constructing and maintaining a project carried out using the funds and for administering and supervising the project and funds in accordance with this section during the period referred to in subclause (I).

"(9) COMPETITIVE BIDDING.—

"(A) IN GENERAL.—Construction of a project under the tribal transportation program shall be performed pursuant to a contract awarded by competitive bidding or other procurement process authorized under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) unless the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, some other method is in the public interest.

"(B) APPLICABILITY OF OTHER LAWS.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (36 Stat. 861; known as the Buy Indian Act) and section 7(b) of the Indian Self-Determination and Education

Assistance Act (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal roads.

"(c) FUNDS DISTRIBUTION.—

"(1) IN GENERAL.—All funds authorized to be appropriated for the tribal transportation program shall be allocated among Indian tribes in accordance with the formula maintained by the Secretary of the Interior under paragraph (4).

"(2) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

"(A) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program. The Secretary of the Interior, in cooperation with the Secretary, by September 30, 2012, and by September 30 of every second year thereafter, shall accept into the comprehensive national inventory those tribal transportation facilities proposed by Indian tribes under the regulations.

"(B) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include in the comprehensive national inventory, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that a tribe has requested, including facilities that—

"(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;

"(ii) are owned by an Indian tribal government;

"(iii) are owned by the Bureau of Indian Affairs;

"(iv) were constructed or reconstructed with funds from the Highway Trust Fund under the Indian reservation roads program since 1983;

"(v) are community streets or bridges within the exterior boundary of Indian reservations, Alaska native villages, or other recognized Indian communities (including communities in former Indian reservations in Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or

"(vi) 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 shall preclude the Secretary of the Interior from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

"(E) BRIDGES.—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 151.

"(3) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain regulations governing the tribal transportation program and the funding formula under paragraph (4) in accordance with established policies and procedures.

"(4) BASIS FOR FUNDING FORMULA FACTORS.—

"(A) IN GENERAL.—The funding formula established under this paragraph shall be based on factors that reflect—

"(i) the relative needs among the Indian tribes, and reservation or tribal communities, for transportation assistance; and

"(ii) the relative administration capacities of, and challenges faced by, various Indian tribes, including the cost of road construction in each Bureau of Indian Affairs area, geographic isolation, and difficulty in maintaining all-weather access to employment, commerce, health, safety, and educational resources.

"(B) TRIBAL HIGH PRIORITY PROJECTS.—The tribal high priority projects program as included in the tribal transportation allocation methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the American Energy and Infrastructure Jobs Act of 2012), shall continue in effect.

"(5) DISTRIBUTION OF FUNDS TO INDIAN TRIBES.—

"(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary or the Secretary of the Interior for a fiscal year to carry out the tribal transportation program, the funds shall be distributed to, and available for immediate use by, eligible Indian tribes in accordance with the formula maintained by the Secretary of the Interior under paragraph (4).

"(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.

"(6) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates for, and may commence, a project for construction of a tribal transportation facility with funds made available to carry out the tribal transportation program through a contract or agreement entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) if the Indian tribal government—

"(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

"(B) obtains the advance review of the plans and specifications for the project from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards;

"(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs of the Department of Transportation or the Assistant Secretary of Indian Affairs of the Department of the Interior, as appropriate; and

"(D) except with respect to a transportation facility owned by the Bureau of Indian Affairs or an Indian tribe, obtains the advance written approval of the plans, specifications, and estimates from the facility owner or public authority having maintenance responsibility for the facility and provides a copy of the approval to the officials referred to in subparagraph (C).

"(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES FOR PROGRAM COSTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions thereof, that are specifically or functionally related to the cost of any tribal transportation facility that provides access to or is located within the reservation or community of an Indian tribe shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(B) EXCLUSION OF AGENCY PARTICIPATION.—Funds for programs, functions, services, or activities, or portions thereof (including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies) shall be paid in accordance with subparagraph (A) without regard to the organizational level at which the Department of Transportation or the Department of the Interior has previously carried out such programs, functions, services, or activities.

"(8) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES FOR TRIBAL TRANSPORTATION FACILITY PROGRAMS AND PROJECTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this title or chapter 53 of title 49 for a tribal transportation facility program or project that is located on an Indian reservation or provides access to the reservation or a community of an Indian tribe shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts, agreements, and grants for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

"(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously

carried out, or the Department of Transportation has previously carried out, the programs, functions, services, or activities involved.

"(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

"(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government in accordance with and governed by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

"(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

"(F) ELIGIBILITY.—

"(i) IN GENERAL.—Subject to clause (ii), funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting the funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is made.

"(ii) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.—If an Indian tribal government did not have an uncorrected significant and material audit exception in a required annual audit of the Indian tribal government's self-determination contracts or self-governance funding agreements with a Federal agency during the 3-fiscal year period referred in clause (i), the Indian tribe shall be treated as having conclusive evidence of its financial stability and financial management capability for purposes of clause (i).

"(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary or the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary or the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolutions and appeal procedures authorized by such Act, including regulations issued to carry out such Act.

"(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

"(d) PLANNING BY INDIAN TRIBAL GOVERNMENTS.—

"(1) IN GENERAL.—Of the funds made available for a fiscal year to carry out the tribal transportation program, the greater of 2 percent or $35,000 may be allocated to Indian tribal governments that have been authorized to conduct transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) COOPERATION.—An Indian tribal government described in paragraph (1), in cooperation with the Secretary of the Interior, and as appropriate with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(e).

"(3) APPROVAL.—Projects selected by an Indian tribal government described in paragraph (1) from a transportation improvement program shall be subject to the approval of the Secretary of the Interior and the Secretary.

"(e) FEDERAL-AID ELIGIBLE PROJECT.—Before approving as a project on a tribal transportation facility any project eligible funds apportioned under section 104 in a State, the Secretary shall determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on tribal transportation facilities, of a fair and equitable share of funds apportioned to such State under section 104.

"(f) ELIGIBILITY FOR DISCRETIONARY AND COMPETITIVE GRANTS.—Notwithstanding any other provision of law, an Indian tribe may directly apply for and receive any discretionary or competitive grant made available to a State or a political subdivision of a State under this title or chapter 53 of title 49 in the same manner and under the same circumstances as a State or a political subdivision of a State.

"§ 203. Federal lands transportation program

"(a) IN GENERAL.—The Secretary shall carry out a Federal lands transportation program in accordance with the requirements of this section.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds made available to carry out the Federal lands transportation program shall be used by the Secretary and the Secretaries of Federal land management agencies to pay for the following:

"(A) The covered costs of—

"(i) Federal lands highways;

"(ii) vehicular parking areas adjacent to Federal lands highways (which may include electric vehicle charging stations);

"(iii) pedestrian walkways and bicycle transportation facilities (as defined in section 217) on Federal lands; and

"(iv) roadside rest areas, including sanitary and water facilities, on Federal lands.

"(B) The costs of transportation projects on public roads or trails eligible for assistance under this title that are within, or provide access to, Federal lands.

"(C) The costs of public transportation projects eligible for assistance under section 5311(b)(1) of title 49 that are within, or provide access to, Federal lands (without regard to whether the project is located in an urbanized area).

"(D) The costs of rehabilitation, restoration, and construction of interpretive signage at Federal lands highways.

"(E) The costs of acquisition of necessary scenic easements and scenic or historic sites associated with Federal lands highways.

"(2) COVERED COSTS DEFINED.—In paragraph (1), the term 'covered costs' means the costs of program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction.

"(3) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to such activity with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(4) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land management agency.

"(5) COOPERATION.—

"(A) IN GENERAL.—The cooperation of States and political subdivisions of States may be accepted in construction and improvement of Federal lands transportation facilities.

"(B) CREDITING OF FUNDS.—Any funds received from a State or a political subdivision of a State for such construction or improvement of Federal lands transportation facilities shall be credited to appropriations available for the class of Federal lands transportation facilities to which funds were contributed.

"(6) COMPETITIVE BIDDING.—Construction of a project under the Federal lands transportation program shall be performed pursuant to a contract awarded by competitive bidding unless the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, some other method is in the public interest.

"(c) AGENCY PROGRAM DISTRIBUTIONS.—

"(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate the funds made available to carry out the Federal lands transportation program for the fiscal year on the basis of applications of need, as determined by the Secretary, and in coordination with the transportation plans required by section 201(e), of the respective transportation systems of the Federal land management agencies.

"(2) MINIMUM ALLOCATIONS.—When making an allocation of funds under paragraph (1) for a fiscal year, the Secretary shall ensure that, of the total amount of funds subject to the allocation—

"(A) the National Park Service receives, at a minimum, 38 percent;

"(B) the Forest Service receives, at a minimum, 32 percent; and

"(C) the United States Fish and Wildlife Service receives, at a minimum, 4.5 percent.

"(3) APPLICATIONS.—

"(A) IN GENERAL.—The Secretary of a Federal land management agency may submit to the Secretary an application for assistance under the Federal lands transportation program.

"(B) CONTENTS.—An application submitted by the Secretary of a Federal land management agency under subparagraph (A) shall contain such information as the Secretary may require, including a description of any proposed program for which the agency is seeking assistance and the potential funding levels for the program.

"(C) CONSIDERATIONS.—In reviewing a proposed program described in an application submitted by the Secretary of a Federal land management agency under subparagraph (A), the Secretary shall consider the extent to which the program supports—

"(i) a state of good repair of transportation facilities across the agency's inventory;

"(ii) a reduction of deficient bridges across the agency's inventory;

"(iii) improvement of safety across the agency's inventory;

"(iv) high use Federal recreation sites or Federal economic generators; and

"(v) the resource management goals of the Secretary of the respective Federal land management agency.

"(d) NATIONAL FEDERAL LANDS HIGHWAYS INVENTORY.—

"(1) IN GENERAL.—The Secretaries of the Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of Federal lands highways.

"(2) HIGHWAYS INCLUDED IN THE INVENTORY.—For purposes of identifying the Federal lands transportation system and determining the relative transportation needs among Federal land management agencies, the inventory shall include, at a minimum, highways that—

"(A) provide access to high use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the Secretaries of the Federal land management agencies; and

"(B) are administered by a Federal land management agency.

"(3) AVAILABILITY.—The Secretary of each Federal land management agency shall maintain an inventory of the Federal lands highways administered by the agency and make the inventory available to the Secretary.

"(4) UPDATES.—The Secretary of each Federal land management agency shall update its inventory referred to in paragraph (3) as determined by the Secretary.

"(5) REVIEW.—A decision to add or remove a highway from an inventory referred to in paragraph (1) or (4) shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 1502. DEFINITIONS.

(a) REPEALS.—Paragraphs (7), (9), (12), (19), (20), (24), (25), (26), and (28) of section 101(a) are repealed.

(b) DEFINITIONS RELATING TO FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.—Section 101(a) is amended by adding at the end the following:

"(40) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means each of the following:

"(A) The National Park Service.

"(B) The Forest Service.

"(C) The United States Fish and Wildlife Service.

"(D) The Corps of Engineers.

"(E) The Bureau of Land Management.

"(41) FEDERAL LANDS.—The term 'Federal lands' means lands administered by a Federal land management agency.

"(42) FEDERAL LANDS HIGHWAY.—The term 'Federal lands highway' means a public road, highway, bridge, or trail that is located on, is adjacent to, or provides access to Federal lands and appears on the national inventory of Federal lands highways maintained under section 203(d).

"(43) FEDERAL LANDS TRANSPORTATION FACILITY.—The term 'Federal lands transportation facility' means a transportation facility eligible for assistance under section 203(b).

"(44) TRIBAL ROAD.—The term 'tribal road' means a public road, highway, bridge, or trail that is located on or provides access to tribal lands and appears on the national inventory of tribal roads maintained under section 202(c).

"(45) TRIBAL TRANSPORTATION FACILITY.—The term 'tribal transportation facility' means a transportation facility eligible for assistance under section 202(b).".

SEC. 1503. CONFORMING AMENDMENTS.

(a) FEDERAL SHARE PAYABLE.—Section 120 is amended—

(1) in subsection (e) by striking "forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads" and inserting "tribal roads and Federal lands highways"; and

(2) in subsection (l)—

(A) in the subsection heading by striking "FEDERAL LANDS HIGHWAYS PROGRAM" and inserting "TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM"; and

(B) by striking "the Federal lands highways program under section 204" and inserting "the tribal transportation program under section 202 and the Federal lands transportation program under section 203".

(b) PRESERVATION OF PARKLANDS.—Section 138(a) is amended by striking "park road or parkway under section 204 of this title" and inserting "Federal lands transportation facility under section 203".

(c) EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.—Section 139(j)(3) is amended—

(1) in the paragraph heading by striking "USE OF FEDERAL LANDS HIGHWAY FUNDS" and inserting "USE OF TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM FUNDS"; and

(2) by striking "section 204" and inserting "sections 202 and 203".

(d) BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.—Section 217(c) is amended—

(1) in the subsection heading by striking "FEDERAL LANDS HIGHWAYS" and inserting "TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM FUNDS"; and

(2) by striking "Funds authorized for" and all that follows through "public lands highways" and inserting "Funds authorized for tribal transportation facilities and Federal lands transportation facilities".

(e) RULES, REGULATIONS, AND RECOMMENDATIONS.—Section 315 is amended by striking "sections 204(f) and 205(a) of this title" and inserting "sections 203(b)(4) and 205(a)".

SEC. 1504. REPEALS; EFFECTIVE DATE.

(a) IN GENERAL.—Sections 204 and 214, and the items relating to such sections in the analysis for chapter 2, are repealed.

(b) EXISTING FUNDS.—A repeal or amendment made by this subtitle shall not affect funds apportioned or allocated (or funds awarded but not yet allocated) before the effective date of the repeal or amendment.

SEC. 1505. CLERICAL AMENDMENT.

The analysis for chapter 2 is amended by striking the items relating to sections 201 through 203 and inserting the following:

"201. General provisions.
"202. Tribal transportation program.
"203. Federal lands transportation program.".

SEC. 1506. TRIBAL TRANSPORTATION SELF-GOVERNANCE PROGRAM.

(a) IN GENERAL.—Chapter 2 is amended by inserting after section 206 the following:

"§ 207. Tribal transportation self-governance program

"(a) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a program to be known as the tribal transportation self-governance program. The Secretary may delegate responsibilities for administration of the program as the Secretary determines appropriate.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—An Indian tribe shall be eligible to participate in the program if the Indian tribe—

"(A) requests participation in the program by resolution or other official action by the governing body of the Indian tribe; and

"(B) demonstrates, for the preceding 3 fiscal years, financial stability and financial management capability.

"(2) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purposes of paragraph (1)(B), evidence that, during the preceding 3 fiscal years, an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

"(c) COMPACTS.—

"(1) COMPACT REQUIRED.—Upon the request of an eligible Indian tribe, and subject to the requirements of this section, the Secretary shall negotiate and enter into a written compact with the Indian tribe for the purpose of providing for the participation of the Indian tribe in the program.

"(2) CONTENTS.—A compact entered into under paragraph (1) shall set forth the general terms of the government-to-government relationship between the Indian tribe and the United States under the program and other terms that will continue to apply in future fiscal years.

"(3) AMENDMENTS.—A compact entered into with an Indian tribe under paragraph (1) may be amended only by mutual agreement of the Indian tribe and the Secretary.

"(d) ANNUAL FUNDING AGREEMENTS.—

"(1) FUNDING AGREEMENT REQUIRED.—After entering into a compact with an Indian tribe under subsection (c), the Secretary shall negotiate and enter into a written annual funding agreement with the Indian tribe.

"(2) CONTENTS.—

"(A) IN GENERAL.—

"(i) DISCRETIONARY AND COMPETITIVE GRANTS.—A funding agreement entered into with an Indian tribe shall authorize the Indian tribe, as determined by the Indian tribe, to plan, conduct, consolidate, administer, and receive full tribal share funding and funding to tribes from discretionary and competitive grants administered by the Department for all programs, services, functions, and activities (or portions thereof) that are made available to Indian tribes to carry out tribal transportation programs and programs, services, functions, and activities (or portions thereof) administered by the Secretary that are otherwise available to Indian tribes.

"(ii) TRANSFERS OF STATE FUNDS.—

"(I) INCLUSION OF TRANSFERRED FUNDS IN FUNDING AGREEMENT.—A funding agreement entered into with an Indian tribe shall include Federal-aid funds apportioned to a State under chapter 1 if the State elects to provide a portion of such funds to the Indian tribe for a project eligible under section 202(b).

"(II) METHOD FOR TRANSFERS.—If a State elects to provide funds described in subclause (I) to an Indian tribe, the State shall transfer the funds back to the Secretary and the Secretary shall transfer the funds to the Indian tribe in accordance with this section.

"(III) RESPONSIBILITY FOR TRANSFERRED FUNDS.—Notwithstanding any other provision of law, if a State provides funds described in subclause (I) to an Indian tribe—

"(aa) the State shall not be responsible for constructing or maintaining a project carried out using the funds or for administering or supervising the project or funds during the applicable statute of limitations period related to the construction of the project; and

"(bb) the Indian tribe shall be responsible for constructing and maintaining a project carried out using the funds and for administering and supervising the project and funds in accordance with this section during the applicable statute of limitations period related to the construction of the project.

"(B) ADMINISTRATION OF TRIBAL SHARES.—The tribal shares referred to in subparagraph (A) shall be provided without regard to the agency or office of the Department within which the program, service, function, or activity (or portion thereof) is performed.

"(C) FLEXIBLE AND INNOVATIVE FINANCING.—

"(i) IN GENERAL.—A funding agreement entered into with an Indian tribe under paragraph (1) shall include provisions pertaining to flexible and innovative financing if agreed upon by the parties.

"(ii) TERMS AND CONDITIONS.—

"(I) AUTHORITY TO ISSUE REGULATIONS.—The Secretary may issue regulations to establish the terms and conditions relating to the flexible and innovative financing provisions referred to in clause (i).

"(II) TERMS AND CONDITIONS IN ABSENCE OF REGULATIONS.—If the Secretary does not issue regulations under subclause (I), the terms and conditions relating to the flexible and innovative financing provisions referred to in clause (i) shall be consistent with—

"(aa) agreements entered into by the Department under section 202(c)(8) before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012; or

"(bb) regulations of the Department of the Interior relating to flexible financing contained in part 170 of title 25, Code of Federal Regulations, as in effect on the date of enactment of such Act.

"(3) DISCRETIONARY AND COMPETITIVE GRANTS.—Notwithstanding any other provision of law, an Indian tribe shall be eligible to directly apply for and receive the discretionary and competitive grants made available under transportation programs that States or political subdivisions of States are eligible to apply for and receive.

"(4) TERMS.—A funding agreement shall set forth—

"(A) terms that generally identify the programs, services, functions, and activities (or portions thereof) to be performed or administered by the Indian tribe; and

"(B) for items identified in subparagraph (A)—

"(i) the general budget category assigned;

"(ii) the funds to be provided, including those funds to be provided on a recurring basis;

"(iii) the time and method of transfer of the funds;

"(iv) the responsibilities of the Secretary and the Indian tribe; and

"(v) any other provision agreed to by the Indian tribe and the Secretary.

"(5) SUBSEQUENT FUNDING AGREEMENTS.—

"(A) APPLICABILITY OF EXISTING AGREEMENT.—Absent notification from an Indian tribe that the Indian tribe is withdrawing from or retroceding the operation of one or more programs, services, functions, or activities (or portions thereof) identified in a funding agreement, or unless otherwise agreed to by the parties, each funding agreement shall remain in full force and effect until a subsequent funding agreement is executed.

"(B) EFFECTIVE DATE OF SUBSEQUENT AGREEMENT.—The terms of the subsequent funding agreement shall be retroactive to the end of the term of the preceding funding agreement.

"(6) CONSENT OF INDIAN TRIBE REQUIRED.—The Secretary shall not revise, amend, or require additional terms in a new or subsequent funding agreement without the consent of the Indian tribe that is subject to the agreement unless such terms are required by Federal law.

"(e) GENERAL PROVISIONS.—

"(1) REDESIGN AND CONSOLIDATION.—

"(A) IN GENERAL.—An Indian tribe, in any manner that the Indian tribe considers to be in the best interest of the Indian community being served, may—

"(i) redesign or consolidate programs, services, functions, and activities (or portions thereof) included in a funding agreement; and

"(ii) reallocate or redirect funds for such programs, services, functions, and activities (or portions thereof), if the funds are—

"(I) expended on projects identified in a transportation improvement program approved by the Secretary; and

"(II) used in accordance with appropriations Acts and other applicable statutory limitations.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), if, pursuant to subsection (d), an Indian tribe receives a discretionary or competitive grant from the Secretary or receives State apportioned funds, the Indian tribe shall use the funds for the purpose for which the funds were originally authorized.

"(2) RETROCESSION.—

"(A) IN GENERAL.—

"(i) AUTHORITY OF INDIAN TRIBES.—An Indian tribe may retrocede (fully or partially) to the Secretary programs, services, functions, or activities (or portions thereof) included in a compact or funding agreement.

"(ii) REASSUMPTION OF REMAINING FUNDS.—Following a retrocession described in clause (i), the Secretary may—

"(I) reassume the remaining funding associated with the retroceded programs, functions, services, and activities (or portions thereof) included in the applicable compact or funding agreement;

"(II) out of such remaining funds, transfer funds associated with Department of Interior programs, services, functions, or activities (or portions thereof) to the Secretary of the Interior to carry out transportation services provided by the Secretary of the Interior; and

"(III) distribute funds not transferred under subclause (II) in accordance with applicable law.

"(iii) CORRECTION OF PROGRAMS.—If the Secretary makes a finding under subsection (f)(2)(B) and no funds are available under subsection (f)(2)(A)(ii), the Secretary shall not be required to provide additional funds to complete or correct any programs, functions, or activities (or portions thereof).

"(B) EFFECTIVE DATE.—Unless the Indian tribe rescinds a request for retrocession, the retrocession shall become effective within the timeframe specified by the parties in the compact or funding agreement. In the absence of such a specification, the retrocession shall become effective on—

"(i) the earlier of—

"(I) 1 year after the date of submission of the request; or

"(II) the date on which the funding agreement expires; or

"(ii) such date as may be mutually agreed upon by the parties and, with respect to Department of the Interior programs, functions, services, and activities (or portions thereof), the Secretary of the Interior.

"(f) PROVISIONS RELATING TO THE SECRETARY.—

"(1) DECISIONMAKER.—A decision that constitutes a final agency action and relates to an appeal of the rejection of a final offer by the Department shall be made either—

"(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

"(B) by an administrative judge.

"(2) TERMINATION OF COMPACT OR FUNDING AGREEMENT.—

"(A) AUTHORITY TO TERMINATE.—

"(i) PROVISION TO BE INCLUDED IN COMPACT OR FUNDING AGREEMENT.—A compact or funding agreement shall include a provision authorizing the Secretary, if the Secretary makes a finding described in subparagraph (B), to—

"(I) terminate the compact or funding agreement (or a portion thereof); and

"(II) reassume the remaining funding associated with the reassumed programs, functions, services, and activities included in the compact or funding agreement.

"(ii) TRANSFERS OF FUNDS.—Out of any funds reassumed under clause (i)(II), the Secretary may transfer the funds associated with Department of the Interior programs, functions, services, and activities (or portions thereof) to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

"(B) FINDINGS RESULTING IN TERMINATION.—The finding referred to in subparagraph (A) is a specific finding of—

"(i) imminent jeopardy to a trust asset, natural resources, or public health and safety that is caused by an act or omission of the Indian tribe and that arises out of a failure to carry out the compact or funding agreement, as determined by the Secretary; or

"(ii) gross mismanagement with respect to funds or programs transferred to the Indian tribe under the compact or funding agreement, as determined by the Secretary in consultation with the Inspector General of the Department, as appropriate.

"(C) PROHIBITION.—The Secretary shall not terminate a compact or funding agreement (or portion thereof) unless—

"(i) the Secretary has first provided written notice and a hearing on the record to the Indian tribe that is subject to the compact or funding agreement; and

"(ii) the Indian tribe has not taken corrective action to remedy the mismanagement of funds or programs or the imminent jeopardy to a trust asset, natural resource, or public health and safety.

"(D) EXCEPTION.—

"(i) IN GENERAL.—Notwithstanding subparagraph (C), the Secretary, upon written notification to an Indian tribe that is subject to a compact or funding agreement, may immediately terminate the compact or funding agreement (or portion thereof) if—

"(I) the Secretary makes a finding of imminent substantial and irreparable jeopardy to a trust asset, natural resource, or public health and safety; and

"(II) the jeopardy arises out of a failure to carry out the compact or funding agreement.

"(ii) HEARINGS.—If the Secretary terminates a compact or funding agreement (or portion thereof) under clause (i), the Secretary shall provide the Indian tribe subject to the compact or agreement with a hearing on the record not later than 10 days after the date of such termination.

"(E) BURDEN OF PROOF.—In any hearing or appeal involving a decision to terminate a compact or funding agreement (or portion thereof) under this paragraph, the Secretary shall have the burden of proof in demonstrating by clear and convincing evidence the validity of the grounds for the termination.

"(g) COST PRINCIPLES.—In administering funds received under this section, an Indian tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as modified by section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j–1), other provisions of law, or by any exemptions to applicable Office of Management and Budget circulars subsequently granted by the Office of Management and Budget. No other audit or accounting standards shall be required by the Secretary. Any claim by the Federal Government against the Indian tribe relating to funds received under a funding agreement based on any audit conducted pursuant to this subsection shall be subject to the provisions of section 106(f) of such Act (25 U.S.C. 450j–1(f)).

"(h) TRANSFER OF FUNDS.—The Secretary shall provide funds to an Indian tribe under a funding agreement in an amount equal to—

"(1) the sum of the funding that the Indian tribe would otherwise receive for the program, function, service, or activity in accordance with a funding formula or other allocation method established under this title or chapter 53 of title 49; and

"(2) such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

"(i) CONSTRUCTION PROGRAMS.—

"(1) STANDARDS.—Construction projects carried out under programs administered by an Indian tribe with funds transferred to the Indian tribe pursuant to a funding agreement entered into under this section shall be constructed pursuant to the construction program standards set forth in applicable regulations or as specifically approved by the Secretary (or the Secretary's designee).

"(2) MONITORING.—Construction programs shall be monitored by the Secretary in accordance with applicable regulations.

"(j) FACILITATION.—

"(1) SECRETARIAL INTERPRETATION.—Except as otherwise provided by law, the Secretary shall interpret all Federal laws, Executive orders, and regulations in a manner that will facilitate—

"(A) the inclusion of programs, services, functions, and activities (or portions thereof) and funds associated therewith, in compacts and funding agreements; and

"(B) the implementation of the compacts and funding agreements.

"(2) REGULATION WAIVER.—

"(A) IN GENERAL.—An Indian tribe may submit to the Secretary a written request to waive application of a regulation promulgated under this section with respect to a compact or funding agreement. The request shall identify the regulation sought to be waived and the basis for the request.

"(B) APPROVALS AND DENIALS.—

"(i) IN GENERAL.—Not later than 90 days after the date of receipt of a written request under subparagraph (A), the Secretary shall approve or deny the request in writing.

"(ii) DENIALS.—The Secretary may deny a request under clause (i) only if the Secretary finds that the identified language in the regulation may not be waived because the waiver is prohibited by Federal law.

"(iii) DEEMED APPROVAL.—If the Secretary does not approve or deny a request submitted under subparagraph (A) on or before the last day of the 90-day period referred to in clause (i), the request shall be deemed approved.

"(iv) FINALITY OF DECISIONS.—A decision by the Secretary under this subparagraph shall be final for the Department.

"(k) DISCLAIMERS.—

"(1) EXISTING AUTHORITY.—Notwithstanding any other provision of law, upon the election of an Indian tribe, the Secretary shall—

"(A) maintain current Federal Highway Administration Indian reservation roads program and funding agreements; or

"(B) enter into new agreements under the authority of section 202(c)(8).

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to impair or diminish the authority of the Secretary under section 202(c)(8).

"(l) APPLICABILITY OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Except to the extent in conflict with this section (as determined by the Secretary), the following provisions of the Indian Self-Determination and Education Assistance Act shall apply to compact and funding agreements (except that references to the Secretary of the Interior in such provisions shall treated as a references to the Secretary of Transportation):

"(1) Subsections (a), (b), (d), (g), and (h) of section 506 of such Act (25 U.S.C. 458aaa–5), relating to general provisions.

"(2) Subsections (b) through (e) and (g) of section 507 of such Act (25 U.S.C.458aaa–6), relating to provisions relating to the Secretary of Health and Human Services.

"(3) Subsections (a), (b), (d), (e), (g), (h), (i), and (k) of section 508 of such Act (25 U.S.C. 458aaa–7), relating to transfer of funds.

"(4) Section 510 of such Act (25 U.S.C. 458aaa–9), relating to Federal procurement laws and regulations.

"(5) Section 511 of such Act (25 U.S.C. 458aaa–10), relating to civil actions.

"(6) Subsections (a)(1), (a)(2), and (c) through (f) of section 512 of such Act (25 U.S.C. 458aaa–11), relating to facilitation, except that subsection (c)(1) of that section shall be applied by substituting 'transportation facilities and other facilities' for 'school buildings, hospitals, and other facilities'.

"(7) Subsections (a) and (b) of section 515 of such Act (25 U.S.C. 458aaa–14), relating to disclaimers.

"(8) Subsections (a) and (b) of section 516 of such Act (25 U.S.C. 458aaa–15), relating to application of title I provisions.

"(9) Section 518 of such Act (25 U.S.C. 458aaa–17), relating to appeals.

"(m) DEFINITIONS.—

"(1) IN GENERAL.—In this section, the following definitions apply (except as otherwise expressly provided):

"(A) COMPACT.—The term 'compact' means a compact between the Secretary and an Indian tribe entered into under subsection (c).

"(B) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(C) ELIGIBLE INDIAN TRIBE.—The term 'eligible Indian tribe' means an Indian tribe that is eligible to participate in the program, as determined under subsection (b).

"(D) FUNDING AGREEMENT.—The term 'funding agreement' means a funding agreement between the Secretary and an Indian tribe entered into under subsection (d).

"(E) INDIAN TRIBE.—The term 'Indian tribe' means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a). In any case in which an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this part, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this title). In such event, the term 'Indian tribe' as used in this part shall include such other authorized Indian tribe, inter-tribal consortium, or tribal organization.

"(F) PROGRAM.—The term 'program' means the tribal transportation self-governance program established under this section.

"(G) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(H) TRANSPORTATION PROGRAMS.—The term 'transportation programs' means all programs administered or financed by the Department under this title and chapter 53 of title 49.

"(2) APPLICABILITY OF OTHER DEFINITIONS.—In this section, the definitions set forth in sections 4 and 505 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b; 458aaa) apply, except as otherwise expressly provided in this section.

"(n) REGULATIONS.—

"(1) IN GENERAL.—

"(A) PROMULGATION.—Not later than 90 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this section.

"(B) PUBLICATION OF PROPOSED REGULATIONS.—Proposed regulations to implement this section shall be published in the Federal Register by the Secretary not later than 21 months after such date of enactment.

"(C) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this paragraph shall expire 30 months after such date of enactment.

"(D) EXTENSION OF DEADLINES.—A deadline set forth in subparagraph (B) or (C) may be extended up to 180 days if the negotiated rulemaking committee referred to in paragraph (2) concludes that the committee cannot meet the deadline and the Secretary so notifies the appropriate committees of Congress.

"(2) COMMITTEE.—

"(A) IN GENERAL.—A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this subsection shall have as its members only Federal and tribal government representatives, a majority of whom shall be nominated by and be representatives of Indian tribes with funding agreements under this title.

"(B) REQUIREMENTS.—The committee shall confer with, and accommodate participation by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

"(C) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

"(3) EFFECT.—The lack of promulgated regulations shall not limit the effect of this section.

"(4) EFFECT OF CIRCULARS, POLICIES, MANUALS, GUIDANCE, AND RULES.—Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Department of Transportation, except regulations promulgated under this section.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 206 the following:

"207. Tribal transportation self-governance program.".

Subtitle F—Program Elimination and Consolidation

SEC. 1601. PROGRAM ELIMINATION AND CONSOLIDATION.

(a) GENERAL PROVISIONS.—

(1) EXISTING FUNDS.—A repeal or amendment made by this section shall not affect funds apportioned or allocated before the effective date of the repeal.

(2) AMENDATORY PROVISIONS.—A repeal made by this section of a provision that contains an amendment to or repeal of another law shall not be construed to affect that law. The amendment to or repeal of that law shall remain in effect as if this section had not been enacted.

(b) REVENUE ALIGNED BUDGET AUTHORITY.—Section 110, and the item relating to that section in the analysis for chapter 1, are repealed.

(c) HIGH PRIORITY PROJECTS PROGRAM.—Section 117, and the item relating to that section in the analysis for chapter 1, are repealed.

(d) SET ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—Section 118(c) is repealed.

(e) CONTROL OF JUNKYARDS.—Section 136, and the item relating to that section in the analysis for chapter 1, are repealed.

(f) HIGHWAY BRIDGE PROGRAM.—Section 144, and the item relating to that section in the analysis for chapter 1, are repealed.

(g) HAZARD ELIMINATION PROGRAM.—Section 152, and the item relating to that section in the analysis for chapter 1, are repealed.

(h) SAFETY INCENTIVE GRANTS FOR THE USE OF SEAT BELTS.—Section 157, and the item relating to that section in the analysis for chapter 1, are repealed.

(i) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—Section 155, and the item relating to that section in the analysis for chapter 1, are repealed.

(j) REIMBURSEMENT FOR SEGMENTS OF THE INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.—Section 160, and the item relating to that section in the analysis for chapter 1, are repealed.

(k) NATIONAL SCENIC BYWAYS PROGRAM.—Section 162, and the item relating to that section in the analysis for chapter 1, are repealed.

(l) INTER-AMERICAN HIGHWAY.—Section 212, and the item relating to that section in the analysis for chapter 2, are repealed.

(m) DARIEN GAP HIGHWAY.—Section 216, and the item relating to that section in the analysis for chapter 2, are repealed.

(n) STATE COORDINATORS.—Section 217 (as amended by this Act) is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) through (j) as subsections (d) through (i), respectively.

(o) ALASKA HIGHWAY.—Section 218 is amended—

(1) in subsection (a)—

(A) by striking the first 2 sentences;

(B) in the third sentence—

(i) by striking ", in addition to such funds,"; and

(ii) by striking "such highway or"; and

(C) by striking "No expenditures" and all that follows through the period at the end;

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(p) MANAGEMENT SYSTEMS.—Section 303, and the item relating to that section in the analysis for chapter 3, are repealed.

(q) COOPERATION WITH OTHER AMERICAN REPUBLICS.—Section 309, and the item relating to that section in the analysis for chapter 3, are repealed.

(r) LANDSCAPING AND SCENIC ENHANCEMENT.—Section 319 is amended—

(1) by striking "(a) LANDSCAPE AND ROADSIDE DEVELOPMENT.—"; and

(2) by striking subsection (b).

(s) MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.—Section 322, and the item relating to that section in the analysis for chapter 3, are repealed.

(t) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.—Section 1117 of SAFETEA–LU (119 Stat. 1177), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(u) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.—Section 1301 of SAFETEA–LU (119 Stat. 1198), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(v) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—Section 1302 of SAFETEA–LU (119 Stat. 1204), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(w) TRUCK PARKING FACILITIES.—Section 1305 of SAFETEA–LU (119 Stat. 1214), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(x) FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM.—Section 1306 of SAFETEA–LU (119 Stat. 1215), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(y) DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.—Section 1307 of SAFETEA–LU (119 Stat. 1217), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(z) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—Section 1308 of SAFETEA–LU (119 Stat. 1218), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(aa) SAFE ROUTES TO SCHOOL PROGRAM.—Section 1404 of SAFETEA–LU (119 Stat. 1228), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(bb) NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE.—Section 1410 of SAFETEA–LU (119 Stat. 1233), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(cc) ROADWAY SAFETY.—Section 1411(b) of SAFETEA–LU (119 Stat. 1234) is repealed.

(dd) HIGHWAYS FOR LIFE PILOT PROGRAM.—Section 1502 of SAFETEA–LU (119 Stat. 1236), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(ee) EXPRESS LANES DEMONSTRATION PROGRAM.—Section 1604(b) of SAFETEA–LU (119 Stat. 1250) is repealed.

(ff) INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM.—Section 1604(c) of SAFETEA–LU (119 Stat. 1253) is repealed.

(gg) AMERICA'S BYWAYS RESOURCE CENTER.—Section 1803 of SAFETEA–LU (119 Stat. 1458), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(hh) NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.—Section 1804 of SAFETEA–LU (119 Stat. 1458), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(ii) NONMOTORIZED TRANSPORTATION PILOT PROGRAM.—Section 1807 of SAFETEA–LU (119 Stat. 1460), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(jj) GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.—Section 1906 of SAFETEA–LU (119 Stat. 1468), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(kk) PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.—Section 1907 of SAFETEA–LU (119 Stat. 1469), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(ll) LIMITATION ON PROJECT APPROVAL.—Section 1958 of SAFETEA–LU (119 Stat. 1515), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

Subtitle G—Miscellaneous

SEC. 1701. TRANSPORTATION ENHANCEMENT ACTIVITY DEFINED.

Section 101(a)(35) is amended—

(1) by striking subparagraphs (C), (F), (G), (H), and (L); and

(2) by redesignating subparagraphs (D), (E), (I), (J), and (K) as subparagraphs (C), (D), (E), (F), and (G), respectively.

SEC. 1702. PAVEMENT MARKINGS.

Section 109 is amended by adding at the end the following:

"(r) PAVEMENT MARKINGS.—The Secretary may not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead.".

SEC. 1703. REST AREAS.

(a) AGREEMENTS RELATING TO USE OF AND ACCESS TO RIGHTS-OF-WAY—INTERSTATE SYSTEM.—Section 111 is amended—

(1) in subsection (a) in the second sentence by striking the period and inserting "and will not change the boundary of any right-of-way on the Interstate Sys-

tem to accommodate construction of, or afford access to, an automotive service station or other commercial establishment.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following:

"(b) REST AREAS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary shall permit a State to acquire, construct, operate, and maintain a rest area along a highway on the Interstate System in such State.

"(2) ELIGIBLE ACTIVITIES.—The Secretary shall permit a rest area under paragraph (1) to include commercial activities that provide goods, services, and information serving the traveling public and the commercial motor carrier industry. Such commercial activities shall be limited to—

"(A) commercial advertising and media displays if such advertising and displays are—

"(i) exhibited solely within any facility constructed in the rest area; and

"(ii) not legible from the main traveled way;

"(B) State promotional or tourism items;

"(C) tourism-related merchandise and products, including electronics and clothing;

"(D) historical or tourism-related entertainment items, including event or attraction tickets;

"(E) travel-related information, including maps, travel booklets, and hotel coupon booklets;

"(F) automatic teller machines; and

"(G) lottery machines.

"(3) PRIVATE OPERATORS.—A State may permit a private party to operate such commercial activities.

"(4) LIMITATION ON USE OF REVENUES.—A State shall use any revenues received from the commercial activities in a rest area under this section to cover the costs of acquiring, constructing, operating, and maintaining rest areas in the State.".

(b) CONTROL OF OUTDOOR ADVERTISING.—Section 131(i) is amended by adding at the end the following: "A State may permit the installation of signs that acknowledge the sponsorship of rest areas within such rest areas or along the main traveled way of the system, provided that such signs shall not affect the safe and efficient utilization of the Interstate System and the primary system. The Secretary shall establish criteria for the installation of such signs on the main traveled way, including criteria pertaining to the placement of rest area sponsorship acknowledgment signs in relation to the placement of advance guide signs for rest areas.".

SEC. 1704. JUSTIFICATION REPORTS FOR ACCESS POINTS ON THE INTERSTATE SYSTEM.

Section 111 is amended by adding at the end the following:

"(e) JUSTIFICATION REPORTS.—If the Secretary requests or requires a justification report for a project that would add a point of access to, or exit from, the Interstate System, the Secretary may permit a State transportation department to approve such report.".

SEC. 1705. PATENTED OR PROPRIETARY ITEMS.

Section 112 is amended by adding at the end the following:

"(h) USE OF PATENTED OR PROPRIETARY ITEMS.—The Secretary shall approve the use, by a State, of Federal funds made available to carry out this chapter to pay for patented or proprietary items if the State transportation department certifies, based on the documented analysis and professional judgment of qualified State transportation officials, that—

"(1) no equally suitable alternative item exists;

"(2) any specified patented or proprietary item will be clearly identified as a patented or proprietary item in bid documents; and

"(3) any specified patented or proprietary item will be available in sufficient quantity to complete any project identified in bid documents.".

SEC. 1706. PREVENTIVE MAINTENANCE.

Section 116 is amended by adding at the end the following:

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) PREVENTIVE MAINTENANCE.—The term 'preventive maintenance' includes pavement preservation programs and activities.

"(2) PAVEMENT PRESERVATION PROGRAMS AND ACTIVITIES.—The term 'pavement preservation programs and activities' means programs and activities employing a network level, long-term strategy that enhances pavement perform-

ance by using an integrated, cost-effective set of practices that extend pavement life, improve safety, and meet road user expectations.".

SEC. 1707. MAPPING.

(a) IN GENERAL.—Section 306 is amended—

(1) in subsection (a) by striking "may" and inserting "shall";

(2) in subsection (b) by striking "State and" and inserting "State government and"; and

(3) by adding at the end the following:

"(c) IMPLEMENTATION.—The Secretary shall develop a process for the oversight and monitoring, on an annual basis, of the compliance of each State with the guidance issued under subsection (b).".

(b) SURVEY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a survey of all States to determine what percentage of projects carried out under title 23, United States Code, in each State utilize private sector sources for surveying and mapping services.

SEC. 1708. FUNDING FLEXIBILITY FOR TRANSPORTATION EMERGENCIES.

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

"§ 330. Funding flexibility for transportation emergencies

"(a) IN GENERAL.—Notwithstanding any other provision of law, the chief executive of a State, after declaring an emergency with respect to a transportation facility under subsection (b), may use any covered funds of the State to repair or replace the transportation facility.

"(b) DECLARATION OF EMERGENCY.—To declare an emergency with respect to a transportation facility for purposes of subsection (a), the chief executive of a State shall provide to the Secretary written notice of the declaration, which shall specify—

"(1) the emergency;

"(2) the affected transportation facility; and

"(3) the repair or replacement activities to be carried out.

"(c) DEFINITIONS.—In this section, the following definitions apply:

"(1) COVERED FUNDS.—The term 'covered funds' means any amounts apportioned to a State under this title, including any such amounts required to be set aside for a purpose other than the repair or replacement of a transportation facility under this section.

"(2) EMERGENCY.—The term 'emergency' means any unexpected event or condition that—

"(A) may cause, or has caused, the catastrophic failure of a transportation facility; and

"(B) is determined to be an emergency by the chief executive of a State.

"(3) TRANSPORTATION FACILITY.—The term 'transportation facility' means any component of the National Highway System.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to allow a State to change the division of surface transportation program funding under section 133(d)(3).".

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

"330. Funding flexibility for transportation emergencies.".

SEC. 1709. BUDGET JUSTIFICATION.

(a) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§ 310. Budget justification

"The Secretary of Transportation and the head of each modal administration of the Department of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a budget justification concurrently with the President's annual budget submission to Congress.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 is amended by inserting after the item relating to section 309 the following:

"310. Budget justification.".

SEC. 1710. EXTENSION OF OVER-THE-ROAD BUS AND PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.

Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note) is amended—

(1) in the heading of paragraph (1) by striking "TEMPORARY EXEMPTION" and inserting "EXEMPTION";

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by striking ", for the period beginning on October 6, 1992, and ending on October 1, 2009,";

(B) in subparagraph (A) by striking "or" at the end;

(C) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following:

"(C) any motor home (as such term is defined in section 571.3 of title 49, Code of Federal Regulations)."; and

(3) in paragraph (2)(A) by striking "For the period beginning on the date of enactment of this subparagraph and ending on September 30, 2009, a" and inserting "A".

SEC. 1711. REPEAL OF REQUIREMENT FOR INTERSTATE SYSTEM DESIGNATION.

Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking "that the segment" and all that follows through the period at the end and inserting "that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code.".

SEC. 1712. RETROREFLECTIVITY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the Manual on Uniform Traffic Control Devices to remove compliance dates with respect to retroreflectivity standards for regulatory, warning, and other post-mounted guide signs and for street name and other overhead guide signs.

SEC. 1713. ENGINEERING JUDGMENT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue guidance to State transportation departments clarifying that the standards, guidance, and options for design and application of traffic control devices provided in the Manual on Uniform Traffic Control Devices should not be considered a substitute for engineering judgment.

SEC. 1714. EVACUATION ROUTES.

Each State shall give adequate consideration to the needs of evacuation routes when allocating funds apportioned to the State under title 23, Unites States Code, for the construction of Federal-aid highways.

SEC. 1715. TRUCK PARKING.

(a) TRUCK PARKING SURVEY.—

(1) REQUIREMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with appropriate State motor carrier safety personnel, shall conduct a survey of each State—

(A) to develop a system of metrics to measure the adequacy of commercial motor vehicle parking facilities in the State;

(B) to assess the volume of commercial motor vehicle traffic in the State; and

(C) to evaluate the capability of the State to provide adequate parking and rest facilities for commercial motor vehicles engaged in interstate transportation.

(2) PUBLICATION OF RESULTS.—The Secretary shall make available to the public on the Internet Web site of the Department the results of surveys conducted under paragraph (1).

(3) PERIODIC UPDATES.—The Secretary shall periodically update surveys conducted under paragraph (1).

(b) TRUCK PARKING PROJECTS.—A State may obligate funds apportioned to the State under paragraph (1), (2), (3), or (5) of section 104(b) of title 23, United States Code, for the following, if serving the National Highway System:

(1) Constructing a safety rest area (as defined in section 120(c) of such title) that includes parking for commercial motor vehicles.

(2) Constructing a commercial motor vehicle parking facility adjacent to a commercial truck stop or travel plaza.

(3) Making a facility available to commercial motor vehicle parking, including an inspection and weigh station or a park-and-ride facility.

(4) Promoting the availability of publicly or privately provided commercial motor vehicle parking using intelligent transportation systems and other means.

(5) Constructing a turnout for commercial motor vehicles.

(6) Making capital improvements to a seasonal public commercial motor vehicle parking facility to allow the facility to remain open throughout the year.

(7) Improving the geometric design of an interchange to improve access to a commercial motor vehicle parking facility.

(c) ELECTRIC VEHICLE INFRASTRUCTURE.—A State may establish electric vehicle charging stations for the use of battery powered trucks or other motor vehicles at any parking facility funded or authorized under this Act or title 23, United States Code. Such charging stations shall be eligible for the same funds as are available for the parking facilities in which they are located.

SEC. 1716. USE OF CERTAIN ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Out of the funds made available under section 104(a) of title 23, United States Code, the Secretary may use not to exceed a total of $2,000,000 each fiscal year—

(1) to operate the national work zone safety information clearinghouse authorized by section 358(b)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625);

(2) to operate a public road safety clearinghouse under section 1411(a) of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1234); and

(3) to provide work zone safety grants under subsections (a) and (b) of section 1409 of SAFETEA–LU (23 U.S.C. 401 note; 119 Stat. 1232).

(b) CONFORMING AMENDMENTS.—

(1) ROADWAY SAFETY.—Section 1411(a) of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1234) is amended by striking paragraph (2) and inserting the following:

"(2) FUNDING.—Funding for activities under this subsection may be made available as described in section 1716(a) of the American Energy and Infrastructure Jobs Act of 2012.".

(2) WORK ZONE SAFETY GRANTS.—Section 1409 of SAFETEA–LU (23 U.S.C. 401 note; 119 Stat. 1232) is amended by striking subsection (c)(1) and inserting the following:

"(1) IN GENERAL.—Funding for activities under this section may be made available as described in section 1716(a) of the American Energy and Infrastructure Jobs Act of 2012.".

SEC. 1717. TRANSPORTATION TRAINING AND EMPLOYMENT PROGRAMS.

To encourage the development of careers in the transportation field, the Secretary of Education and the Secretary of Labor are encouraged to use funds for training and employment education programs to develop such programs for transportation-related careers and trades, and to work with the Secretary of Transportation to carry out such programs.

SEC. 1718. ENGINEERING AND DESIGN SERVICES.

(a) IN GENERAL.—For projects carried out under title 23, United States Code, a State transportation department shall utilize, to the maximum extent practicable, commercial enterprises for the delivery of engineering and design services.

(b) REPORTING REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, each State transportation department shall submit to the Secretary a report documenting the extent to which the State utilizes commercial enterprises for the delivery of engineering and design services for projects carried out under title 23, United States Code, which shall include, at a minimum—

(1) the number and types of engineering and design activities for which commercial enterprises were utilized in the preceding year; and

(2) the policies or procedures utilized by the State transportation department to increase the amount of engineering and design services for which commercial enterprises were utilized.

(c) STATE TRANSPORTATION DEPARTMENT DEFINED.—In this section, the term "State transportation department" has the meaning given that term under section 101 of title 23, United States Code.

SEC. 1719. NOTICE OF CERTAIN GRANT AWARDS.

(a) IN GENERAL.—Except to the extent otherwise expressly provided in another provision of law, at least 3 business days before a covered grant award is announced, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives written notice of the covered grant award.

(b) COVERED GRANT AWARD DEFINED.—The term "covered grant award" means a grant award—

(1) made—

(A) by the Department; and

(B) with funds made available under this Act; and

(2) in an amount equal to or greater than $500,000.

SEC. 1720. MISCELLANEOUS PARKING AMENDMENTS.

(a) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) is amended by adding at the end the following: "The addition of electric vehicle charging stations to new or previously funded parking facilities shall be eligible for funding under this section.".

(b) PUBLIC TRANSPORTATION.—Section 142(a)(1) is amended by inserting "(which may include electric vehicle charging stations)" after "parking facilities".

(c) FOREST DEVELOPMENT ROADS AND TRAILS.—Section 205(d) is amended by inserting "(which may include electric vehicle charging stations)" after "parking areas".

SEC. 1721. HIGHWAY BUY AMERICA PROVISIONS.

Section 313 is amended by adding at the end the following:

"(g) APPLICATION.—The requirements of this section apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this title.

"(h) WAIVER REQUIREMENTS.—

"(1) IN GENERAL.—If the Secretary receives a request for a waiver under this section, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request.

"(2) NOTICE REQUIREMENTS.—A notice provided under paragraph (1) shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation.

"(3) DETAILED JUSTIFICATION.—If the Secretary issues a waiver under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the waiver that addresses the public comments received under paragraph (1) and shall ensure that such justification is published before the waiver takes effect.".

SEC. 1722. VETERANS PREFERENCE IN HIGHWAY CONSTRUCTION.

Section 114 is amended by adding at the end the following:

"(d) VETERANS EMPLOYMENT.—Recipients of Federal financial assistance under this chapter shall ensure that contractors working on a highway project funded using such assistance give preference in the hiring or referral of laborers on any project for the construction of a highway to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not apply to projects subject to section 140(d).".

SEC. 1723. REAL-TIME RIDESHARING.

Section 101(a)(2) is amended—

(1) by striking "and" after "devices,"; and

(2) by inserting before the period at the end the following: ", and real-time ridesharing projects (where drivers, using an electronic transfer of funds, recover costs directly associated with the trip provided using location technology to quantify the direct costs associated with the trip, if the cost recovered does not exceed the cost of the trip provided)".

SEC. 1724. STATE AUTONOMY FOR CULVERT PIPE SELECTION.

Not later than 180 days after the date of enactment of this Act, the Secretary shall modify section 635.411 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that States have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.

SEC. 1725. EQUAL OPPORTUNITY ASSESSMENT.

(a) IN GENERAL.—In accordance with this section, the Secretary shall assess, throughout the United States, the extent to which nondiscrimination and equal opportunity exist in the construction and operation of federally funded transportation projects, programs, and activities.

(b) SUPPORTING INFORMATION.—In conducting the assessment under subsection (a), the Secretary shall—

(1) review all demographic data, discrimination complaints, reports, and other relevant information collected or prepared by a recipient of Federal financial assistance or the Department pursuant to an applicable civil rights statute, regulation, or other obligation; and

(2) coordinate with the Secretary of Labor, as necessary, to obtain information regarding equitable employment and contracting opportunities.

(c) REPORT.—Not later than 4 years after the date of enactment of this Act, and every 4 years thereafter, the Secretary shall submit to Congress and publish on the Web site of the Department a report on the results of the assessment under subsection (a). The report shall include the following:

(1) A specification of the impediments to nondiscrimination and equal opportunity in federally funded transportation projects, programs, and activities.

(2) Recommendations for overcoming the impediments specified under paragraph (1).

(3) Information upon which the assessment is based.

(d) COLLECTION AND REPORTING PROCEDURES.—

(1) PUBLIC AVAILABILITY.—The Secretary shall ensure, to the extent appropriate, that all information reviewed or collected for the assessment under subsection (a) is made available to the public through the prompt and ongoing publication of the information, including a summary of the information, on the Web site of the Department.

(2) REGULATIONS.—The Secretary shall issue regulations for the collection and reporting of information necessary to carry out this section.

(e) COORDINATION.—In carrying out this section, the Secretary shall coordinate with the Director of the Bureau of Transportation Statistics, the Director of the Departmental Office of Civil Rights, the Secretary of Labor, and the heads of such other agencies as may contribute to the assessment under subsection (a).

TITLE II—PUBLIC TRANSPORTATION

SEC. 2001. SHORT TITLE; AMENDMENTS TO TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the "Public Transportation Act of 2012".

(b) AMENDMENTS TO TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2002. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)(I) by striking "10 percent" and inserting "15 percent";

(2) by redesignating paragraphs (12) through (17) as paragraphs (13) through (18), respectively; and

(3) by inserting after paragraph (11) the following:

"(12) RURAL AREA.—The term 'rural area' means an area encompassing a population of less than 50,000 people that has not been designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.".

SEC. 2003. PLANNING PROGRAMS.

Section 5305 is amended—

(1) in the heading for subsection (d) by inserting "TRANSPORTATION" before "PLANNING";

(2) in paragraph (d)(2), by striking "designated under this section" and inserting "responsible for carrying out the provisions of section 5203 of this title";

(3) in subsection (e)—

(A) in the subsection heading by striking "STATE" and inserting "STATEWIDE TRANSPORTATION"; and

(B) in paragraph (1)(A) by striking "5315,"; and

(4) in subsection (g) by striking "section 5338(c)" and inserting "section 5338(a)(2)".

SEC. 2004. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306(a) is amended by striking ", as determined by local policies, criteria, and decisionmaking,".

SEC. 2005. URBANIZED AREA FORMULA GRANTS.

(a) GRANTS.—Section 5307(b)(1) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

"(F) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of at least 200,000 if the

State or regional authority providing public transportation for the urbanized area is operating—

"(i) 75 buses or fewer in fixed-route service during peak service hours, not to exceed 50 percent of the net project cost of the project for operating expenses; and

"(ii) more than 75 but fewer than 100 buses in fixed-route service during peak service hours, not to exceed 25 percent of the net project cost of the project for operating expenses; and".

(b) GENERAL AUTHORITY.—Section 5307(b)(3) is amended—

(1) by inserting "TRANSPORTATION MANAGEMENT AREAS.—" before "In a"; and

(2) by moving the text 2 ems to the right.

(c) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (D)—

(A) by striking "elderly and handicapped individuals, or an" and inserting "elderly individuals, individuals with disabilities, and any"; and

(B) by striking the comma before "will be charged";

(2) in subparagraph (H) by striking "section 5301(a), section 5301(d)," and inserting "section 5301";

(3) in subparagraph (I) by adding "and" at the end;

(4) in subparagraph (J)(ii) by striking "; and" and inserting a period; and

(5) by striking subparagraph (K).

SEC. 2006. CAPITAL INVESTMENT GRANTS.

(a) IN GENERAL.—Section 5309 is amended to read as follows:

"§ 5309. Capital investment grants

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

"(1) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term 'new fixed guideway capital project' means an operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

"(2) NEW START PROJECT.—The term 'new start project' means a new fixed guideway capital project for which the Federal assistance provided or to be provided under this section is $75,000,000 or more.

"(3) SMALL START PROJECT.—The term 'small start project' means a new fixed guideway capital project for which—

"(A) the Federal assistance provided or to be provided under this section is less than $75,000,000; and

"(B) the total estimated net capital cost is less than $250,000,000.

"(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

"(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights-of-way, and relocation assistance, for fixed guideway corridor development for projects in the advanced stages of planning or in project development; and

"(2) the development of corridors to support new fixed guideway capital projects under subsections (d) and (e), including protecting rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes, park and ride lots, and other nonvehicular capital improvements that the Secretary may determine would result in increased public transportation usage in the corridor.

"(c) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary may not approve a grant under this section unless the Secretary determines that—

"(A) the project is part of an approved long-range transportation plan and program of projects required under sections 5203, 5204, and 5306; and

"(B) the applicant has, or will have—

"(i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

"(ii) satisfactory continuing control over the use of the equipment or facilities; and

"(iii) the capability and willingness to maintain the equipment or facilities.

"(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

"(3) GRANTEE REQUIREMENTS.—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or ap-

propriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(d) NEW START PROJECTS.—

"(1) FULL FUNDING GRANT AGREEMENT.—

"(A) IN GENERAL.—A new start project shall be carried out through a full funding grant agreement.

"(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving assistance for a new start project that—

"(i) is authorized for project development; and

"(ii) has been rated as high, medium-high, or medium, in accordance with paragraph (5).

"(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a new start project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the project—

"(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5203;

"(B) is based on the results of an evaluation of the benefits of the project as set forth in paragraph (3); and

"(C) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a reduction in existing public transportation services or level of service to operate the project.

"(3) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a new start project under paragraph (2)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative):

"(A) The cost effectiveness of the project.

"(B) The mobility and accessibility benefits of the project, including direct intermodal connectivity with other modes of transportation.

"(C) The degree of congestion relief anticipated as a result of the project.

"(D) The reductions in energy consumption and air pollution associated with the project.

"(E) The economic development effects associated with the project.

"(F) The private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private strategies.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—In making a determination for a new start project under paragraph (2)(C), the Secretary shall—

"(A) require that the proposed project plan provide for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(B) require that each proposed local source of capital and operating financing is stable, reliable, and available within the project timetable;

"(C) consider private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private partnership strategies;

"(D) consider the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project; and

"(E) consider the elements of the overall proposed public transportation system advanced with 100 percent non-Federal funds.

"(5) RATINGS.—In carrying out paragraphs (3) and (4) for a new start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

"(e) SMALL START PROJECTS.—

"(1) IN GENERAL.—

"(A) APPLICABILITY OF REQUIREMENTS.—Except as provided by subparagraph (B), a small start project shall be subject to the requirements of this subsection.

"(B) PROJECTS RECEIVING LESS THAN $25,000,000 IN FEDERAL ASSISTANCE.—If the assistance provided under this section for a small start project is less than $25,000,000—

"(i) the requirements of this subsection shall not apply to the project if determined appropriate by the Secretary; and

"(ii) the Secretary shall utilize special warrants described in subsection (n) to advance the project and provide Federal assistance as appropriate.

"(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance for a small start project under this subsection only if the Secretary determines that the project—

"(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5203;

"(B) is based on the results of an analysis of the benefits of the project as set forth in paragraph (3); and

"(C) is supported by an acceptable degree of local financial commitment.

"(3) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a small start project under paragraph (2)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative):

"(A) The cost effectiveness of the project.

"(B) The mobility and accessibility benefits of the project, including direct intermodal connectivity with other modes of transportation.

"(C) The degree of congestion relief anticipated as a result of the project.

"(D) The economic development effects associated with the project.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

"(5) RATINGS.—In carrying out paragraphs (3) and (4) for a small start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

"(6) GRANTS AND EXPEDITED GRANT AGREEMENTS.—

"(A) IN GENERAL.—The Secretary, to the maximum extent practicable, shall provide Federal assistance under this subsection in a single grant. If the Secretary cannot provide such a single grant, the Secretary may execute an expedited grant agreement in order to include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

"(B) TERMS OF EXPEDITED GRANT AGREEMENTS.—In executing an expedited grant agreement under this subsection, the Secretary may include in the agreement terms similar to those established under subsection (g)(2)(A).

"(C) NOTICE OF PROPOSED GRANTS AND EXPEDITED GRANT AGREEMENTS.—At least 10 days before making a grant award or entering into a grant agreement for a project under this subsection, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate of the proposed grant or expedited grant agreement, as well as the evaluations and ratings for the project.

"(7) INCLUSION OF CORRIDOR-BASED CAPITAL PROJECTS.—In this subsection, the term 'small start project' includes a corridor-based capital project if—

"(A) a majority of the project operates in a separate right-of-way dedicated for transit use during peak hour operations; or

"(B) the project represents a substantial investment in a defined corridor as demonstrated by investment in fixed transit facilities and equipment such as substantial transit stations, intelligent transportation systems technology, traffic signal priority, off-board fare collection, and other direct investments in the corridor.

"(f) PREVIOUSLY ISSUED LETTER OF INTENT OR GRANT AGREEMENT.—Subsections (d) and (e) do not apply to projects for which the Secretary has issued a letter of intent, entered into an early systems work agreement or a full funding grant agreement, or has been approved to enter final design before the date of enactment of the Public Transportation Act of 2012.

"(g) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

"(1) LETTERS OF INTENT.—

"(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new start project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

"(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under section 1108(c), 1108(d), 1501, or 1502(a) of title 31 or an administrative commitment.

"(2) FULL FUNDING GRANT AGREEMENTS.—

"(A) TERMS.—The Secretary may enter into a full funding grant agreement with an applicant for a grant under this section for a new start project. The agreement shall—

"(i) establish the terms of participation by the Government in the project;

"(ii) establish the maximum amount of Government financial assistance for the project;

"(iii) cover the period of time for completing the project, including, if necessary, a period extending beyond the period of an authorization;

"(iv) make timely and efficient management of the project easier according to the laws of the United States; and

"(v) establish terms requiring the applicant to repay all Government payments made under the agreement (plus such reasonable interest and penalty charges as are established by the Secretary in the agreement) if the applicant does not carry out the project for reasons within the control of the applicant.

"(B) SPECIAL FINANCIAL RULES.—

"(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment (contingent on amounts to be specified in law in advance for commitments under this paragraph) to obligate an additional amount from future available budget authority specified in law.

"(ii) STATEMENT OF CONTINGENT COMMITMENT.—The full funding grant agreement shall state that the contingent commitment is not an obligation of the Government.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in a full funding grant agreement for a new start project shall be sufficient to complete at least one operable segment.

"(C) BEFORE AND AFTER STUDY.—

"(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

"(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies sources of differences between predicted and actual outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—An applicant seeking a full funding grant agreement under this paragraph shall submit to the Secretary a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the

project. Preparation of the plan shall be included in the agreement as an eligible activity.

"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

"(aa) the collection of data on the current transit system of the applicant regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

"(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

"(cc) collection of data on the transit system of the applicant 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the project; and

"(dd) an analysis of the consistency of predicted project characteristics with the data collected under item (cc).

"(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible to enter into a full funding grant agreement under this paragraph for a new start project, an applicant shall have collected data on the current transit system of the applicant, according to the plan required under subparagraph (C)(ii), before the beginning of construction of the project. Collection of the data shall be included in the full funding grant agreement as an eligible activity.

"(3) EARLY SYSTEMS WORK AGREEMENTS.—

"(A) CONDITIONS.—The Secretary may enter into an early systems work agreement with an applicant for a new start project if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe a full funding grant agreement for the project will be made.

"(B) CONTENTS.—

"(i) IN GENERAL.—A work agreement under this paragraph for a new start project obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

"(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) FAILURE TO CARRY OUT PROJECT.—If, after entering into a work agreement under this paragraph for a new start project, an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

"(4) LIMITATION ON AMOUNTS.—

"(A) NEW START GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for new start projects may be not more than the greater of the amount authorized under section 5338(b) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(2)(B) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for the projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

"(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

"(5) NOTIFICATION OF CONGRESS.—At least 10 days before issuing a letter of intent or an early systems work agreement under this section, and at least 21 days before entering into a full funding grant agreement under this section, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

"(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—

"(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost of a new fixed guideway capital project. A grant under this section for the project shall be for 80 percent of the net capital project cost unless the grant recipient requests a lower grant percentage.

"(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital from public or private sources.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to request or require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

"(5) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

"(i) UNDERTAKING PROJECTS IN ADVANCE.—

"(1) IN GENERAL.—The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

"(A) the State or local governmental authority applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same manner as other projects under this section.

"(2) FINANCING COSTS.—

"(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

"(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

"(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

"(j) AVAILABILITY OF AMOUNTS.—An amount made available or appropriated under section 5338(b) for new fixed guideway capital projects shall remain available for a period of 3 fiscal years after the fiscal year in which the amount is made available or appropriated. Any of such amount that is unobligated at the end of such period shall be rescinded and deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction and prohibited from use as an offset for other spending increases or revenue reductions.

"(k) REPORTS ON NEW START PROJECTS.—

"(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Com-

mittee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate a report that includes—

"(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

"(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Public Transportation Act of 2012; and

"(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

"(2) BIENNIAL GAO REVIEW.—Beginning 2 years after the date of enactment of the Public Transportation Act of 2012, the Comptroller General of the United States shall—

"(A) conduct a biennial review of—

"(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

"(ii) the Secretary's implementation of such processes and procedures; and

"(B) on a biennial basis, report to Congress on the results of such review by May 31.

"(l) BEFORE AND AFTER STUDY REPORT.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

"(m) LIMITATIONS.—

"(1) LIMITATION ON GRANTS.—The Secretary may make a grant or enter into a grant agreement for a new fixed guideway capital project under this section only if the project has been rated as high, medium-high, or medium or the Secretary has issued a special warrant described in subsection (n) in lieu of such ratings.

"(2) FISCAL YEARS 2013 THROUGH 2016.—Of the amounts made available or appropriated for fiscal years 2013 through 2016 under section 5338(b)—

"(A) $150,000,000 for each fiscal year shall be allocated for small start projects in accordance with subsection (e); and

"(B) the remainder shall be allocated for new start projects in accordance with subsection (d).

"(3) LIMITATION ON EXPENDITURES.—None of the amounts made available or appropriated under section 5338(b) may be expended on a project that has not been adopted as the locally preferred alternative as part of a long-range transportation plan.

"(n) EXPEDITED PROJECT ADVANCEMENT.—

"(1) WARRANTS.—The Secretary, to the maximum extent practicable, shall develop and utilize special warrants to advance projects and provide Federal assistance under this section. Special warrants may be utilized to advance new fixed guideway projects under this section without requiring evaluations and ratings described under subsections (d)(5) and (e)(5). Such warrants shall be—

"(A) based on current transit ridership, corridor characteristics, and service on existing alignments;

"(B) designed to assess distinct categories of projects, such as proposed new service enhancements on existing alignments, new line haul service, and new urban circulator service; and

"(C) based on the benefits for proposed projects as set forth in subsections (d)(3) and (e)(3) for the Federal assistance provided or to be provided under this subsection.

"(2) NEW PROJECT DEVELOPMENT.—

"(A) IN GENERAL.—A project sponsor who requests Federal funding under this section shall apply to the Secretary to begin new project development after a proposed new fixed guideway capital project has been adopted as the locally preferred alternative as part of the metropolitan long-range transportation plan required under section 5303, and funding options for the non-Federal funding share have been identified. The application for new project development shall specify whether the project sponsor is seeking Federal assistance under subsection (d) or (e).

"(B) APPLICATIONS.—

"(i) NOTICE TO CONGRESS.—Not later than 10 days after the date of receipt of an application for new project development under subparagraph (A), the Secretary shall provide written notice of the application to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(ii) APPROVAL OR DISAPPROVAL.—On the 11th day following the date on which the Secretary provides written notice of an application for new project development under clause (i), the Secretary shall approve or disapprove the application.

"(C) PROJECT AUTHORIZATION.—Upon approval of an application to begin new project development, the proposed new fixed guideway capital project shall be authorized and eligible for Federal funding under this section.

"(3) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—The Secretary, to the maximum extent practicable, shall issue letters of intent and make early systems work agreements upon issuance of a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) FUNDING AGREEMENTS.—The Secretary shall enter into a full funding grant agreement, expedited grant agreement, or grant, as appropriate, between the Government and the project sponsor as soon as the Secretary determines that the project meets the requirements of subsection (d) or (e).

"(5) RECORDS RETENTION.—The Secretary shall adhere to a uniform records retention policy regarding all documentation related to new fixed guideway capital projects.

"(o) REGULATIONS.—Not later than 240 days after the date of enactment of the Public Transportation Act of 2012, the Secretary shall issue regulations establishing new program requirements for the programs created under this section, including new evaluation and rating processes for proposed projects under this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5309 and inserting the following:

"5309. Capital investment grants.".

SEC. 2007. BUS AND BUS FACILITIES FORMULA GRANTS.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

"§ 5310. Bus and bus facilities formula grants

"(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist States and local governmental authorities in financing capital projects—

"(1) to replace, rehabilitate, and purchase buses and related equipment; and

"(2) to construct bus-related facilities.

"(b) GRANT REQUIREMENTS.—The requirements of subsections (c) and (d) of section 5307 apply to recipients of grants made under this section.

"(c) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

"(1) RECIPIENTS.—Eligible recipients under this section are providers of public transportation in urbanized areas that operate fixed route bus services and that do not operate heavy rail, commuter rail, or light rail services.

"(2) SUBRECIPIENTS.—A recipient that receives a grant under this section may allocate the amounts provided to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations.

"(d) DISTRIBUTION OF GRANT FUNDS.—Grants under this section shall be distributed pursuant to the formula set forth in section 5336 other than subsection (b).

"(e) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project, as defined in section 5302(a)(1), shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

"(2) REMAINING COSTS.—The remainder of the net project cost shall be provided—

"(A) in cash from non-Government sources other than revenues from providing public transportation services;

"(B) from revenues derived from the sale of advertising and concessions;

"(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

"(D) from amounts received under a service agreement with a State or local social service agency or private social service organization.

"(f) PERIOD OF AVAILABILITY TO RECIPIENTS.—A grant made available under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

"(g) TRANSFERS OF APPORTIONMENTS.—

"(1) TRANSFER TO CERTAIN AREAS.—The chief executive officer of a State may transfer any part of the State's funds made available under this section to urbanized areas of less than 200,000 in population or to rural areas in the State, after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was provided under this section.

"(2) TRANSFER TO STATE.—A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its grant funds provided under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas of less than 200,000 in population or to rural areas in the State.

"(h) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323(a)(1), 5323(d), 5323(f), 5332, and 5333 apply to this section and to a grant made with funds apportioned under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant under this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5310 and inserting the following:

"5310. Bus and bus facilities formula grants.".

SEC. 2008. RURAL AREA FORMULA GRANTS.

(a) AMENDMENT TO SECTION HEADING.—Section 5311 is amended by striking the section designation and heading and inserting the following:

"§ 5311. Rural area formula grants".

(b) PROGRAM GOALS.—Section 5311(b) is amended by adding at the end the following:

"(5) PROGRAM GOALS.—The goals of this section are—

"(A) to enhance the mobility and access of people in rural areas by assisting in the development, construction, operation, improvement, maintenance, and use of public transportation systems and services in rural areas;

"(B) to increase the intermodalism of and connectivity among public transportation systems and services within rural areas and to urban areas by providing for maximum coordination of programs and services;

"(C) to increase the state of good repair of rural public transportation assets; and

"(D) to enhance the mobility and access of people in rural areas by assisting in the development and support of intercity bus transportation.".

(c) PROJECTS OF NATIONAL SCOPE.—Section 5311(b)(3)(C) is amended by adding at the end the following: "In carrying out such projects, the Secretary shall enter into a competitively selected contract to provide on-site technical assistance to local and regional governments, public transit agencies, and public transportation-related nonprofit and for-profit organizations in rural areas for the purpose of developing training materials and providing necessary training assistance to local officials and agencies in rural areas.".

(d) APPORTIONMENTS.—Section 5311(c)(2) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking subparagraph (B) and inserting the following:

"(B) 70 percent shall be apportioned to the States in accordance with paragraph (4); and"; and

(3) by adding at the end the following:

"(C) 10 percent shall be apportioned to the States in accordance with paragraph (5).".

(e) APPORTIONMENTS BASED ON PUBLIC TRANSPORTATION SERVICES PROVIDED IN RURAL AREAS.—Section 5311(c) is amended by adding at the end the following:

"(5) APPORTIONMENTS BASED ON PUBLIC TRANSPORTATION SERVICES PROVIDED IN RURAL AREAS.—The Secretary shall apportion to each State an amount equal to the amount apportioned under paragraph (2)(C) as follows:

"(A) ½ of such amount multiplied by the ratio that—

"(i) the number of public transportation revenue vehicle-miles operated in or attributable to rural areas in that State, as determined by the Secretary; bears to

"(ii) the total number of all public transportation revenue vehicle-miles operated in or attributable to rural areas in all States; and

"(B) ½ of such amount multiplied by the ratio that—

"(i) the number of public transportation unlinked passenger trips operated in or attributable to rural areas in that State, as determined by the Secretary; bears to

"(ii) the total number of all public transportation unlinked passenger trips operated in or attributable to rural areas in all States.".

(f) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended by striking "15 percent" and inserting "10 percent".

(g) INTERCITY BUS TRANSPORTATION.—Section 5311(f)(1) is amended—

(1) in subparagraph (B) by striking "shelters" and inserting "facilities"; and

(2) in subparagraph (C) by striking "stops and depots" and inserting "facilities".

(h) NON-FEDERAL SHARE.—Section 5311(g)(3) is amended—

(1) in subparagraph (B) by striking "and" at the end;

(2) in subparagraph (C) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) may be derived from the costs of a private operator's intercity bus service as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under subsection (f), except that this subparagraph shall apply only if the project includes both feeder service and a connecting unsubsidized intercity route segment and if the private operator agrees in writing to the use of its unsubsidized costs as an in-kind match.".

(i) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5311 and inserting the following:

"5311. Rural area formula grants.".

SEC. 2009. TRANSIT RESEARCH.

(a) AMENDMENT TO SECTION HEADING.—Section 5312 is amended by striking the section designation and heading and inserting the following:

"§ 5312. Transit research".

(b) RESEARCH PROJECTS.—Section 5312(a) is amended by adding at the end the following:

"(4) FUNDING.—The amounts made available under section 5338(c) are available to the Secretary for grants, contracts, cooperative agreements, or other agreements for the purposes of this section and sections 5305 and 5322, as the Secretary considers appropriate.".

(c) JOINT PARTNERSHIP PROGRAM.—Section 5312(b)(5) is amended by striking "Mass Transit Account" and inserting "Alternative Transportation Account".

(d) TRANSIT COOPERATIVE RESEARCH PROGRAM.—Section 5312(c) is amended to read as follows:

"(c) TRANSIT COOPERATIVE RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a public transportation cooperative research program using amounts made available under section 5338(c).

"(2) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for the program. The board shall recommend public transportation research, development, and technology transfer activities to be carried out under the program.

"(3) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary determines appropriate.".

(e) GOVERNMENT SHARE.—Section 5312 is amended by adding at the end the following:

"(d) GOVERNMENT SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with that benefit.".

(f) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5312 and inserting the following:

"5312. Transit research.".

SEC. 2010. COORDINATED ACCESS AND MOBILITY PROGRAM FORMULA GRANTS.

(a) IN GENERAL.—Section 5317 is amended to read as follows:

"§ 5317. Coordinated access and mobility program formula grants

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

"(1) ELDERLY INDIVIDUAL.—The term 'elderly individual' means an individual who is age 65 or older.

"(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term 'eligible low-income individual' means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673 of the Community Serv-

ices Block Grant Act (42 U.S.C. 9902), including any revision required by that section) for a family of the size involved.

"(3) JOB ACCESS AND REVERSE COMMUTE PROJECT.—The term 'job access and reverse commute project' means a transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.

"(4) RECIPIENT.—The term 'recipient' means a designated recipient (as defined in section 5307(a)) and a State that directly receives a grant under this section.

"(5) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or private operator of public transportation services that receives a grant under this section indirectly through a recipient.

"(6) WELFARE RECIPIENT.—The term 'welfare recipient' means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

"(b) GOALS.—The goals of the program established under this section are to—

"(1) improve the accessibility of the Nation's public transportation systems and services;

"(2) improve the mobility of or otherwise meet the special needs of elderly individuals, eligible low-income individuals, and individuals with disabilities; and

"(3) improve the coordination among all providers of public transportation and human services transportation.

"(c) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary may make grants under this section to recipients for the following purposes:

"(A) For public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

"(B) For job access and reverse commute projects carried out by the recipient or a subrecipient.

"(C) For new public transportation services, and for public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

"(2) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

"(3) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(d) APPORTIONMENTS.—

"(1) FORMULA.—The Secretary, using the most recent decennial census data, shall apportion amounts made available for a fiscal year to carry out this section as follows:

"(A) 50 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)) for urbanized areas with a population of 200,000 or more in the ratio that—

"(i) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in each such urbanized area; bears to

"(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in all such urbanized areas.

"(B) 25 percent of the funds shall be apportioned among the States in the ratio that—

"(i) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

"(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

"(C) 25 percent of the funds shall be apportioned among the States in the ratio that—

"(i) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in rural areas with a population of less than 50,000 in each State; bears to

"(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in rural areas with a population of less than 50,000 in all States.

"(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

"(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

"(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

"(C) funds apportioned under paragraph (1)(C) shall be used for projects serving rural areas.

"(3) EXCEPTIONS.—A State may use funds apportioned under paragraph (1)(B) or (1)(C)—

"(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or

"(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

"(4) MINIMUM APPORTIONMENT.—

"(A) IN GENERAL.—The Secretary may establish a minimum apportionment for States and territories under paragraph (1).

"(B) LIMITATION.—A minimum apportionment received by a State or territory under this paragraph for a fiscal year may not exceed the total of the fiscal year 2012 apportionments received by the State or territory under sections 5310, 5316, and 5317 (as in effect on the day before the date of enactment of the Public Transportation Act of 2012).

"(e) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

"(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (d)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

"(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (d)(1)(B) or (d)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

"(3) SPECIAL RULE.—A recipient of a grant under this section may allocate the amounts provided under the grant to—

"(A) a nonprofit organization or private operator of public transportation, if the public transportation service provided under subsection (c)(1) is unavailable, insufficient, or inappropriate; or

"(B) in the case of a grant to provide the services described in subsection (c)(1)(A), a governmental authority that—

"(i) is approved by the recipient to coordinate services for elderly individuals and individuals with disabilities; or

"(ii) certifies that there are not any nonprofit organizations or private operators of public transportation services readily available in the area to provide the services described in subsection (c)(1)(A).

"(4) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (d) shall submit to the recipient an application in such form and in accordance with such requirements as the recipient shall establish.

"(5) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

"(6) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients will be distributed on a fair, equitable, and competitive basis.

"(f) GRANT REQUIREMENTS.—With respect to a grant made to provide services described in subsection (c), the Secretary shall apply grant requirements that are consistent with requirements for activities authorized under sections 5310, 5316, and 5317 (as such sections were in effect on the day before the date of enactment of the Public Transportation Act of 2012).

"(g) COORDINATION.—

"(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(2) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

"(A) the projects selected to receive funding under this section were derived from a locally developed, coordinated public transportation-human services transportation plan;

"(B) the plan was developed through a process that included participation by representatives of public, private, and nonprofit transportation and human services providers and participation by the public and appropriate advocacy organizations; and

"(C) the planning process provided for consideration of projects and strategies to create or improve regional transportation services that connect multiple jurisdictions.

"(h) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary. The recipient may provide additional local matching amounts.

"(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive an increased Government share in accordance with the formula under such section.

"(2) OPERATING ASSISTANCE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs that equals 62.5 percent of the Government share provided for under paragraph (1)(B).

"(3) REMAINDER.—The remainder of the net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

"(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands transportation program established by section 203 of title 23.

"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

"(i) LEASING VEHICLES.—Vehicles and equipment acquired under this section may be leased to a recipient or subrecipient to improve transportation services designed to meet the special needs of elderly individuals, eligible low-income individuals, and individuals with disabilities.

"(j) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

"(k) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

"(l) PROGRAM EVALUATION.—Not later than 2 years after the date of enactment of the Public Transportation Act of 2012, and not later than 2 years thereafter, the Comptroller General of the United States shall—

"(1) conduct a study to evaluate the grant program authorized by this section, including a description of how grant recipients have coordinated activities carried out under this section with transportation activities carried out by recipients using grants awarded under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.); and

"(2) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5317 and inserting the following:

"5317. Coordinated access and mobility program formula grants.".

SEC. 2011. TRAINING AND TECHNICAL ASSISTANCE PROGRAMS.

(a) AMENDMENT TO SECTION HEADING.—Section 5322 is amended by striking the section designation and heading and inserting the following:

"§ 5322. Training and technical assistance programs".

(b) TRAINING AND OUTREACH.—Section 5322(a) is amended—

(1) by striking "programs that address" and all that follows before the period at the end of the first sentence and inserting "programs that address training and outreach needs as they apply to public transportation activities, and programs that provide public transportation-related technical assistance to providers of public transportation services";

(2) by striking "and" at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting "; and"; and

(4) by adding at the end the following:

"(5) technical assistance provided through national nonprofit organizations with demonstrated capacity and expertise in a particular area of public transportation policy.".

(c) NATIONAL TRANSIT INSTITUTE, TECHNICAL ASSISTANCE, AND FUNDING.—Section 5322 is amended by adding at the end the following:

"(c) NATIONAL TRANSIT INSTITUTE.—

"(1) GRANTS AND CONTRACTS.—The Secretary may award grants or enter into contracts with a public university to establish a National Transit Institute to support training and educational programs for Federal, State, and local transportation employees engaged or to be engaged in Government-aid public transportation work.

"(2) EDUCATION AND TRAINING.—The National Transit Institute shall provide education and training to employees of State and local governments at no cost when the education and training is related to a responsibility under a Government program.

"(d) TECHNICAL ASSISTANCE.—The Secretary may provide public transportation-related technical assistance under this section as follows:

"(1) To help public transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through a competitively selected contract or cooperative agreement with a national nonprofit organization serving individuals with disabilities that has a demonstrated capacity to carry out technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act.

"(2) To help public transportation providers comply with human services transportation coordination requirements and to enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation through a competitively selected contract or cooperative agreement with a national nonprofit organization that has a demonstrated capacity to carry out technical assistance, training, and support services related to complying with such requirements.

"(3) To help public transportation providers meet the transportation needs of elderly individuals through a competitively selected contract or cooperative agreement with a national nonprofit organization serving elderly individuals that has a demonstrated capacity to carry out such activities.

"(4) To provide additional technical assistance, mobility management services, volunteer support services, training, and research that the Secretary determines will assist public transportation providers meet the goals of this section.

"(e) FUNDING.—Training and outreach programs and technical assistance activities performed under this section shall be paid for with administrative funds made available under section 5338(c).".

(d) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5322 and inserting the following:

"5322. Training and technical assistance programs.".

SEC. 2012. GENERAL PROVISIONS.

(a) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) is amended by adding at the end the following:

"(3) COSTS INCURRED BY PROVIDERS OF PUBLIC TRANSPORTATION BY VANPOOL.—

"(A) LOCAL MATCHING SHARE.—The local matching share provided by a recipient of assistance for a capital project under this chapter may include any amounts expended by a provider of public transportation by vanpool for the acquisition of rolling stock to be used by such provider in the recipient's service area, excluding any amounts the provider may have received in Federal, State, or local government assistance for such acquisition.

"(B) USE OF REVENUES.—A private provider of public transportation by vanpool may use revenues it receives in the provision of public transportation service in the service area of a recipient of assistance under this chapter that are in excess of the provider's operating costs for the purpose of acquiring rolling stock, if the private provider enters into a legally binding agreement with the recipient that requires the provider to use the rolling stock in the recipient's service area.

"(C) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) PRIVATE PROVIDER OF PUBLIC TRANSPORTATION BY VANPOOL.—The term 'private provider of public transportation by vanpool' means a private entity providing vanpool services in the service area of a recipient of assistance under this chapter using a commuter highway vehicle or vanpool vehicle.

"(ii) COMMUTER HIGHWAY VEHICLE; VANPOOL VEHICLE.—The term 'commuter highway vehicle' or 'vanpool vehicle' means any vehicle—

"(I) the seating capacity of which is at least 6 adults (not including the driver); and

"(II) at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.

"(4) INCENTIVES FOR COMPETITIVELY CONTRACTED SERVICE.—

"(A) ELIGIBILITY.—Subject to subparagraph (C), a recipient of assistance under this chapter that meets the targets under subparagraph (B) for competitively contracted service shall be eligible, at the request of the recipient, for a Federal share of 90 percent for the capital cost of buses and bus-related facilities and equipment purchased with financial assistance made available under this chapter.

"(B) TARGET.—To qualify for the competitively contracted service incentive program under this paragraph, a public transit agency or governmental unit shall competitively contract for at least 20 percent of its fixed route bus service. The percentage of competitively contracted service shall be calculated by determining the ratio of competitively contracted service vehicles operated in annual maximum service to total vehicles operated in annual maximum service.

"(C) MAINTENANCE OF EFFORT.—A public transit agency or governmental unit shall be eligible for an increased Federal share under this paragraph only if the amount of State and local funding provided to the affected public transit agency or governmental unit for the capital cost of buses and bus-related facilities and equipment will not be less than the average amount of funding for such purposes provided during the 3 fiscal years preceding the date of enactment of this paragraph.

"(D) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) COMPETITIVELY CONTRACTED SERVICE.—The term 'competitively contracted service' means fixed route bus transportation service purchased by a public transit agency or governmental unit from a private transportation provider based on a written contract.

"(ii) VEHICLES OPERATED IN ANNUAL MAXIMUM SERVICE.—The term 'vehicles operated in annual maximum service' means the number of transit vehicles operated to meet the annual maximum service requirement during the peak season of the year, on the week and day that maximum service is provided.".

(b) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—Section 5323 is amended by adding at the end the following:

"(q) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—A recipient of assistance under this chapter may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes.".

(c) SPECIAL CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—If, in any fiscal year, the Secretary is prohibited by law from enforcing regulations related to

charter bus service under part 604 of title 49, Code of Federal Regulations, for any transit agency that during fiscal year 2008 was both initially granted a 60-day period to come into compliance with part 604, and then was subsequently granted an exception from such part—

(1) the transit agency shall be precluded from receiving its allocation of urbanized area formula grant funds for that fiscal year; and

(2) any amounts withheld pursuant to paragraph (1) shall be added to the amount that the Secretary may apportion under section 5336 of title 49, United States Code, in the following fiscal year.

SEC. 2013. CONTRACT REQUIREMENTS.

Section 5325(h) is amended by striking "Federal Public Transportation Act of 2005" and inserting "Public Transportation Act of 2012".

SEC. 2014. VETERANS PREFERENCE IN TRANSIT CONSTRUCTION.

Section 5325 is amended by adding at the end the following:

"(k) VETERANS EMPLOYMENT.—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a preference in the hiring or referral of laborers to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract.".

SEC. 2015. PRIVATE SECTOR PARTICIPATION.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5325 the following:

"§ 5326. Private sector participation

"(a) GENERAL PURPOSES.—In the interest of fulfilling the general purposes of this chapter under section 5301(f), the Secretary shall—

"(1) better coordinate public and private sector-provided public transportation services; and

"(2) promote more effective utilization of private sector expertise, financing, and operational capacity to deliver costly and complex new fixed guideway capital projects.

"(b) ACTIONS TO PROMOTE BETTER COORDINATION BETWEEN PUBLIC AND PRIVATE SECTOR PROVIDERS OF PUBLIC TRANSPORTATION.—The Secretary shall—

"(1) provide technical assistance to recipients of Federal transit grant assistance on practices and methods to best utilize private providers of public transportation; and

"(2) educate recipients of Federal transit grant assistance on laws and regulations under this chapter that impact private providers of public transportation.

"(c) ACTIONS TO PROVIDE TECHNICAL ASSISTANCE FOR ALTERNATIVE PROJECT DELIVERY METHODS.—Upon request by a sponsor of a new fixed guideway capital project, the Secretary shall—

"(1) identify best practices for public-private partnerships models in the United States and in other countries;

"(2) develop standard public-private partnership transaction model contracts; and

"(3) perform financial assessments that include the calculation of public and private benefits of a proposed public-private partnership transaction.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 5325 the following:

"5326. Private sector participation.".

(c) PUBLIC-PRIVATE PARTNERSHIP PROCEDURES AND APPROACHES.—

(1) IDENTIFY IMPEDIMENTS.—The Secretary shall—

(A) except as provided in paragraph (4), identify any provisions of chapter 53 of title 49, United States Code, and any regulations or practices thereunder, that impede greater use of public-private partnerships and private investment in public transportation capital projects;

(B) develop and implement on a project basis procedures and approaches that—

(i) address such impediments in a manner similar to the Special Experimental Project Number 15 of the Federal Highway Administration (commonly referred to as "SEP–15"); and

(ii) protect the public interest and any public investment in covered projects.

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the status of the procedures and approaches developed and implemented under paragraph (1).

(3) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue rules to carry out the procedures and approaches developed under paragraph (1).

(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to allow the Secretary to waive any requirement under—

(A) section 5333 of title 49, United States Code;

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

(C) any other provision of Federal law not described in paragraph (2)(A).

(d) CONTRACTING OUT STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a comprehensive report on the effect of contracting out public transportation operations and administrative functions on cost, availability and level of service, efficiency, and quality of service.

(2) CONSIDERATIONS.—In developing the report, the Comptroller General shall consider—

(A) the number of grant recipients that have contracted out services and the types of public transportation services that are performed under contract, including paratransit service, fixed route bus service, commuter rail operations, and administrative functions;

(B) the size of the populations served by such grant recipients;

(C) the basis for decisions regarding contracting out such services;

(D) comparative costs of providing service under contract to providing the same service through public transit agency employees, using to the greatest extent possible a standard cost allocation model;

(E) the extent of unionization among privately contracted employees; and

(F) barriers to contracting out public transportation operations and administrative functions.

(e) GUIDANCE ON DOCUMENTING COMPLIANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish in the Federal Register policy guidance regarding how to best document compliance by recipients of Federal assistance under chapter 53 of title 49, United States Code, with the requirements regarding private enterprise participation in public transportation planning and transportation improvement programs under sections 5203(g)(6) (as added by title IV of this Act), and sections 5306(a) and 5307(c) of this title.

SEC. 2016. PROJECT MANAGEMENT OVERSIGHT.

Section 5327(c)(1) is amended—

(1) by striking "to make contracts"; and

(2) by striking subparagraph (F) and inserting the following:

"(F) 1 percent of amounts made available to carry out section 5337.

"(G) 0.75 percent of amounts made available to carry out section 5317.".

SEC. 2017. STATE SAFETY OVERSIGHT.

(a) GENERAL AUTHORITY.—Section 5330(b) is amended to read as follows:

"(b) GENERAL AUTHORITY.—The Secretary may require that up to 100 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 for a fiscal year beginning after September 30, 2013, be utilized on capital safety improvement and state of good repair projects for the benefit of fixed guideway transportation systems in such State or urbanized area in the State before any other transit capital project is undertaken, if—

"(1) the State in the prior fiscal year has not met the requirements of subsection (c); or

"(2) the Secretary has certified that the State safety oversight agency (as defined in section 5336(k)(1)(B)) does not have adequate technical capacity, personnel resources, and authority under relevant State law to perform the agency's responsibilities described in that section.".

SEC. 2018. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.

(a) APPORTIONMENTS.—Section 5336(i) is amended to read as follows:

"(i) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(B)—

"(1) 2 percent shall be apportioned to certain urbanized areas with populations of less than 200,000 in accordance with subsection (j);

"(2) 1 percent shall be apportioned to applicable States for operational support and training costs of State safety oversight agencies and personnel employed by or under contract to such agencies in accordance with subsection (k); and

"(3) any amount not apportioned under paragraphs (1) and (2) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).".

(b) STATE SAFETY OVERSIGHT AGENCIES.—Section 5336(k) is amended to read as follows:

"(k) STATE SAFETY OVERSIGHT AGENCIES FORMULA.—

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

"(A) APPLICABLE STATES.—The term 'applicable States' means States that—

"(i) have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; or

"(ii) are designing or constructing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.

"(B) STATE SAFETY OVERSIGHT AGENCIES.—The term 'State safety oversight agency' means a designated State authority that has responsibility—

"(i) for requiring, reviewing, approving, and monitoring safety program plans under section 5330(c)(1);

"(ii) for investigating hazardous conditions and accidents on fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(iii) for requiring action to correct or eliminate those conditions.

"(2) APPORTIONMENT.—

"(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (i)(2) shall be apportioned among applicable States under a formula to be established by the Secretary. Such formula shall take into account factors of fixed guideway revenue vehicle miles, fixed guideway route miles, and fixed guideway vehicle passenger miles attributable to all rail fixed guideway systems not subject to regulation by the Federal Railroad Administration within each applicable State.

"(B) RECIPIENTS OF APPORTIONED AMOUNTS.—Amounts apportioned under the formula established pursuant to subparagraph (A) shall be made available as grants to State safety oversight agencies. Such grants are subject to uniform administrative requirements for grants and cooperative agreements to State and local governments under part 18 of title 49, Code of Federal Regulations, and are subject to the requirements of this chapter as the Secretary determines appropriate.

"(C) USE OF FUNDS.—A State safety oversight agency may use funds apportioned under subparagraph (A) for program operational and administrative expenses, including employee training activities, that assist the agency in carrying out its responsibilities described in paragraph (1)(B).

"(D) CERTIFICATION PROCESS.—

"(i) DETERMINATIONS.—The Secretary shall determine whether or not each State safety oversight agency has adequate technical capacity, personnel resources, and authority under relevant State law to perform the agency's defined responsibilities described in paragraph (1)(B).

"(ii) ISSUANCE OF CERTIFICATIONS AND DENIALS.—The Secretary shall—

"(I) issue a certification to each State safety oversight agency that the Secretary determines under clause (i) has adequate technical capacity, personnel resources, and authority; and

"(II) issue a denial of certification to each State safety oversight agency that the Secretary determines under clause (i) does not have adequate technical capacity, personnel resources, and authority, and provide the agency with a written explanation of the reasons for the denial.

"(E) ANNUAL REPORT.—On or before July 1 of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on—

"(i) the amount of funds apportioned to each applicable State; and

"(ii) the certification status of each State safety oversight agency, including what steps an agency that has been denied certification must take in order to be so certified.".

(c) CONFORMING AMENDMENT.—Section 5336(d)(1) is amended by striking "subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338" and inserting "section 5338(a)(2)(B)".

SEC. 2019. FIXED GUIDEWAY MODERNIZATION FORMULA GRANTS.

(a) AMENDMENT TO SECTION HEADING.—Section 5337 is amended—

(1) by striking the section designation and heading and inserting the following:

"§ 5337. Fixed guideway modernization program".

(b) PROGRAM GOALS.—Section 5337 is amended—

(1) by redesignating subsections (a) through (f) as subsections (c) through (h), respectively; and

(2) by inserting before subsection (c) (as so redesignated) the following:

"(a) PROGRAM GOALS.—The goals of the fixed guideway modernization program are—

"(1) to rehabilitate, maintain, and preserve the Nation's fixed guideway public transportation systems;

"(2) to reduce the maintenance backlog and increase the state of good repair of the Nation's fixed guideway public transportation systems; and

"(3) to increase the overall ridership on fixed guideway public transportation systems.

"(b) GENERAL AUTHORITY.—The Secretary may make grants to eligible recipients under this section to assist State and local government authorities in financing capital projects to modernize eligible fixed guideway systems.".

(c) DISTRIBUTION.—Section 5337(c) (as redesignated by subsection (b)(1) of this section) is amended by striking "under section 5309" and all that follows before paragraph (1) and inserting "for a fiscal year as follows:".

(d) AVAILABILITY OF AMOUNTS.—Section 5337(f) (as redesignated by subsection (b)(1) of this section) is amended to read as follows:

"(f) AVAILABILITY OF AMOUNTS.—An amount appropriated under this section shall remain available for a period of 3 fiscal years after the fiscal year in which the amount is appropriated. Any of such amount that is unobligated at the end of such period shall be reapportioned for the next fiscal year among eligible recipients in accordance with subsection (c).".

(e) GRANT REQUIREMENTS.—Section 5337 is amended by adding at the end the following:

"(i) UNDERTAKING PROJECTS IN ADVANCE.—

"(1) IN GENERAL.—When a recipient obligates all amounts apportioned to it under this section and then carries out a part of a project described in this section without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under this section if—

"(A) the recipient applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

"(2) REQUIREMENT FOR APPROVAL OF APPLICATIONS.—The Secretary may approve an application under paragraph (1) only if an authorization for this section is in effect for the fiscal year to which the application applies.

"(3) INTEREST PAYMENTS.—The cost of carrying out that part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out this part. However, the amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(j) GRANT REQUIREMENTS.—A grant under this section shall be subject to the requirements of subsections (c), (d), (e), (h), (i), and (m) of section 5307.".

(f) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5337 and inserting the following:

"5337. Fixed guideway modernization program.".

SEC. 2020. AUTHORIZATIONS.

(a) IN GENERAL.—Section 5338 is amended to read as follows:

"§ 5338. Authorizations

"(a) FORMULA AND BUS GRANTS.—

"(1) IN GENERAL.—There shall be available from the Alternative Transportation Account of the Highway Trust Fund to carry out sections 5305, 5307,

5310, 5311, 5317, 5330, 5335, and 5337 $8,400,000,000 for each of fiscal years 2013 through 2016.

"(2) ALLOCATION OF FUNDS.—Amounts made available under paragraph (1) shall be allocated as follows:

"(A) $126,000,000 for each of fiscal years 2013 through 2016 shall be available to carry out section 5305.

"(B) $4,578,000,000 for each of fiscal years 2013 through 2016 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas and State safety oversight agencies under sections 5307 and 5336(k).

"(C) $840,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for States and local governmental authorities to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities under section 5310. Of such amount, $3,000,000 shall be available for each fiscal year for bus testing under section 5318.

"(D) $672,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for rural areas under section 5311.

"(E) $504,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for recipients and subrecipients to provide coordinated access and mobility public transportation projects and services under section 5317.

"(F) $3,500,000 for each of fiscal years 2013 through 2016 shall be available to carry out section 5335. Such amount shall be made available from funds allocated in accordance with section 5336 before the apportionments under subsection 5336(i) are carried out.

"(G) $1,680,000,000 for each of fiscal years 2013 through 2016 shall be made available and allocated in accordance with section 5337 to provide financial assistance for State and local government authorities to finance capital projects to modernize eligible fixed guideway systems.

"(b) CAPITAL INVESTMENT GRANTS.—There is authorized to be appropriated to carry out section 5309(m)(2) $1,955,000,000 for each of fiscal years 2013 through 2016.

"(c) RESEARCH, TRAINING AND OUTREACH, AND TECHNICAL ASSISTANCE.—There is authorized to be appropriated to carry out the transit research program under section 5312 and the training and outreach, National Transit Institute, and technical assistance activities authorized by section 5322, $45,000,000 for each of fiscal years 2013 through 2016. Such amounts shall remain available until expended.

"(d) ADMINISTRATION.—There is authorized to be appropriated to carry out sections 5326 and 5334 $98,000,000 for each of fiscal years 2013 through 2016.

"(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Alternative Transportation Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project.

"(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.".

(b) CONFORMING AMENDMENT.—Section 5333(b)(1) is amended by striking "5338(b)" and inserting "5338(a)" each place it appears.

SEC. 2021. OBLIGATION LIMITS.

The total of all obligations from amounts made available from the Alternative Transportation Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (d) of section 5338 of title 49, United States Code, shall not exceed $10,498,000,000 in each of fiscal years 2013 through 2016, of which not more than $8,400,000,000 shall be from the Alternative Transportation Account.

SEC. 2022. PROGRAM ELIMINATION AND CONSOLIDATION.

(a) GENERAL PROVISION.—A repeal or amendment made by this section shall not affect funds apportioned or allocated before the effective date of the repeal.

(b) CLEAN FUELS DISCRETIONARY GRANT PROGRAM.—Section 5308, and the item relating to that section in the analysis for chapter 53, are repealed.

(c) CONFORMING AMENDMENTS REGARDING FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.—

(1) Section 5327(c) is amended by striking "5310" each place it appears and inserting "5317".

(2) Section 31138(e)(4) is amended by striking "section 5307, 5310, or 5311" and inserting "section 5307, 5311, or 5317".

(d) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Section 5311(c)(1) is repealed.

(e) TRANSIT COOPERATIVE RESEARCH PROGRAM.—Section 5313, and the item relating to that section in the analysis for chapter 53, are repealed.

(f) NATIONAL RESEARCH PROGRAMS.—Section 5314, and the item relating to that section in the analysis for chapter 53, are repealed.

(g) NATIONAL TRANSIT INSTITUTE.—

(1) REPEAL.—Section 5315, and the item relating to that section in the analysis for chapter 53, are repealed.

(2) CONFORMING AMENDMENT.—Section 5307(k)(1) is amended by striking "5315(c),".

(h) BICYCLE FACILITIES.—Section 5319 is amended by striking the last sentence.

(i) JOB ACCESS AND REVERSE COMMUTE FORMULA GRANTS.—

(1) REPEAL.—Section 5316, and the item relating to that section in the analysis for chapter 53, are repealed.

(2) CONFORMING AMENDMENT.—Chapter 53 is amended in section 5333(b)(1) by striking "5316," each place it appears.

(j) PAUL S. SARBANES TRANSIT IN THE PARKS PROGRAM.—

(1) REPEAL.—Section 5320, and the item relating to that section in the analysis for chapter 53, are repealed.

(2) CONFORMING AMENDMENT.—Section 5327(c)(2)(B) is amended by striking "5311, and 5320" and inserting "and 5311".

(k) REPEAL OF DEBT SERVICE RESERVE PILOT PROGRAM.—Section 5323(e) is amended by striking paragraph (4).

(l) PROGRAM OF INTERRELATED PROJECTS.—Section 5328 is amended by striking subsection (c).

(m) ALTERNATIVES ANALYSIS.—Section 5339, and the item relating to that section in the analysis for chapter 53, are repealed.

(n) APPORTIONMENTS BASED ON GROWING STATES AND HIGH DENSITY STATES FORMULA FACTORS.—Section 5340, and the item relating to that section in the analysis for chapter 53, are repealed.

(o) CONTRACTED PARATRANSIT PILOT.—Section 3009 of SAFETEA–LU (119 Stat. 1572) is amended by striking subsection (i).

(p) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b) of SAFETEA–LU (49 U.S.C. 5310 note; 119 Stat. 1591) is repealed.

(q) NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.—Section 3045 of SAFETEA–LU (49 U.S.C. 5308 note; 119 Stat. 1705), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(r) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA–LU (49 U.S.C. 5338 note; 119 Stat. 1706), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(s) OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

SEC. 2023. EVALUATION AND REPORT.

(a) EVALUATION.—The Comptroller General of the United States shall evaluate the progress and effectiveness of the Federal Transit Administration in assisting recipients of assistance under chapter 53 of title 49, United States Code, to comply with section 5332(b) of such title, including—

(1) by reviewing discrimination complaints, reports, and other relevant information collected or prepared by the Federal Transit Administration or recipients of assistance from the Federal Transit Administration pursuant to any applicable civil rights statute, regulation, or other requirement; and

(2) by reviewing the process that the Federal Transit Administration uses to resolve discrimination complaints filed by members of the public.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the evaluation under subsection (a) that includes—

(1) a description of the ability of the Federal Transit Administration to address discrimination and foster equal opportunities in federally funded public transportation projects, programs, and activities;

(2) recommendations for improvements if the Comptroller General determines that improvements are necessary; and

(3) information upon which the evaluation under subsection (a) is based.

SEC. 2024. TRANSIT BUY AMERICA PROVISIONS.

Section 5323(j) is amended by adding at the end the following:

"(10) APPLICATION OF BUY AMERICA TO TRANSIT PROGRAMS.—The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this chapter.

"(11) ADDITIONAL WAIVER REQUIREMENTS.—

"(A) IN GENERAL.—If the Secretary receives a request for a waiver under this section, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request.

"(B) NOTICE REQUIREMENTS.—A notice provided under subparagraph (A) shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation

"(C) DETAILED JUSTIFICATION.—If the Secretary issues a waiver under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the waiver that addresses the public comments received under subparagraph (A) and shall ensure that such justification is published before the waiver takes effect.".

TITLE III—ENVIRONMENTAL STREAMLINING

SEC. 3001. AMENDMENTS TO TITLE 23, UNITED STATES CODE.

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

SEC. 3002. DECLARATION OF POLICY.

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

"(4) EXPEDITED PROJECT DELIVERY.—Congress declares that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process. Accordingly, it is the policy of the United States that—

"(A) the Secretary shall have the lead role among Federal agencies in carrying out the environmental review process for surface transportation projects;

"(B) each Federal agency shall cooperate with the Secretary to expedite the environmental review process for surface transportation projects;

"(C) there shall be a presumption that the mode, facility type, and corridor location for a surface transportation project will be determined in the transportation planning process, as established in sections 5203 and 5204 of title 49;

"(D) project sponsors shall not be prohibited from carrying out pre-construction project development activities concurrently with the environmental review process;

"(E) programmatic approaches shall be used, to the maximum extent possible, to reduce the need for project-by-project reviews and decisions by Federal agencies; and

"(F) the Secretary shall actively support increased opportunities for project sponsors to assume responsibilities of the Secretary in carrying out the environmental review process.".

SEC. 3003. EXEMPTION IN EMERGENCIES.

If any road, highway, or bridge is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121), and is reconstructed

in the same location with the same capacity, dimensions, and design as before the emergency, then that reconstruction project shall be exempt from any further environmental reviews, approvals, licensing, and permit requirements under—

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

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

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

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

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

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

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

(8) Executive Order 11990 (42 U.S.C. 4321 note; relating to the protection of wetlands); and

(9) any Federal law (including regulations) requiring no net loss of wetlands.

SEC. 3004. ADVANCE ACQUISITION OF REAL PROPERTY INTERESTS.

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

(1) by striking "real property" each place it appears and inserting "real property interests";

(2) by striking "right-of-way" each place it appears and inserting "real property interest"; and

(3) by striking "rights-of-way" each place it appears and inserting "real property interests".

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

(1) in the subsection heading by striking "EARLY ACQUISITION OF RIGHTS-OF-WAY" and inserting "STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS";

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

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

(A) in the heading by striking "GENERAL RULE" and inserting "ELIGIBILITY FOR REIMBURSEMENT"; and

(B) by striking "Subject to paragraph (2)" and inserting "Subject to paragraph (3)";

(4) by inserting before paragraph (2), as redesignated, the following:

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

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

(A) in the matter preceding subparagraph (A) by striking "in paragraph (1)" and inserting "in paragraph (2)"; and

(B) in subparagraph (G) by striking "both the Secretary and the Administrator of the Environmental Protection Agency have concurred" and inserting "the Secretary has determined".

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

"(d) FEDERALLY FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—

"(1) IN GENERAL.—The Secretary may authorize the use of Federal funds for the acquisition of a real property interest by a State. For purposes of this subsection, an acquisition of a real property interest includes the acquisition of any interest in land, including the acquisition of a contractual right to acquire any interest in land, or any other similar action to acquire or preserve rights-of-way for a transportation facility.

"(2) STATE CERTIFICATION.—A State requesting Federal funding for an acquisition of a real property interest shall certify in writing that—

"(A) the State has authority to acquire the real property interest under State law;

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

"(C) the State acknowledges that early acquisition will not be considered by the Secretary in the environmental assessment of a project, the decision relative to the need to construct a project, or the selection of a project design or location.

"(3) ENVIRONMENTAL COMPLIANCE.—Before authorizing Federal funding for an acquisition of a real property interest, the Secretary shall complete for the acquisition the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). For purposes of the review process, the acquisition of a real property interest shall be treated as having independent utility and does not limit consideration of alternatives for future transportation improvements with respect to the real property interest.

"(4) PROGRAMMING.—The acquisition of a real property interest for which Federal funding is requested shall be included as a project in an applicable transportation improvement program under sections 5203 and 5204 of title 49. The acquisition project may be included in the transportation improvement program on its own, without including the future construction project for which the real property interest is being acquired. The acquisition project may consist of the acquisition of a specific parcel, a portion of a transportation corridor, or an entire transportation corridor.

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

"(e) CONSIDERATION OF LONG-RANGE TRANSPORTATION NEEDS.—The Secretary shall encourage States and other public authorities, if practicable, to acquire transportation real property interests that are sufficient to accommodate long-range transportation needs and, if possible, to do so through the acquisition of broad real property interests that have the capacity for expansion over a 50- to 100-year period and the potential to accommodate one or more transportation modes.".

SEC. 3005. STANDARDS.

Section 109 (as amended by title I of this Act) is further amended by adding at the end the following:

"(s) UNDERTAKING DESIGN ACTIVITIES BEFORE COMPLETION OF ENVIRONMENTAL REVIEW PROCESS.—

"(1) IN GENERAL.—A State may carry out, at the expense of the State, design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals of the project.

"(2) ELIGIBILITY FOR REIMBURSEMENT.—Subject to paragraph (3), funds apportioned to a State under this title may be used to participate in the payment of costs incurred by the State for design activities, if the results of the activities are subsequently incorporated (in whole or in substantial part) into a project eligible for surface transportation program funds.

"(3) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (2) shall be eligible for reimbursement out of funds apportioned to a State under this title when the design activities are incorporated (in whole or in substantial part) into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that—

"(A) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been completed for the project for which the design activities were conducted by the State; and

"(B) the design activities conducted pursuant to this subsection did not preclude the consideration of alternatives to the project.".

SEC. 3006. LETTING OF CONTRACTS.

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

"(1) IN GENERAL.—

"(A) COMPETITIVE BIDDING REQUIREMENT.—Subject to paragraphs (2), (3), and (4), construction of each project, subject to the provisions of subsection (a), shall be performed by contract awarded by competitive bidding, unless the State transportation department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists.

"(B) BASIS OF AWARD.—

"(i) IN GENERAL.—Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility.

"(ii) PROHIBITION.—No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to

such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.".

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

(1) in subparagraph (A) by striking "subparagraph (C)" and inserting "subparagraph (B)";

(2) by striking subparagraph (B);

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

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

(A) in the matter preceding clause (i) by striking "of the SAFETEA-LU" and inserting "of the American Energy and Infrastructure Jobs Act of 2012";

(B) in clause (ii) by striking "and" at the end;

(C) in clause (iii)—

(i) by striking "final design or"; and

(ii) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(iv) permit the State transportation department, the local transportation agency, and the design-build contractor to proceed, at the expense of one or more of those entities, with design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project. Design activities carried out under this clause shall be eligible for Federal reimbursement as a project expense in accordance with the requirements under section 109(s).".

(c) EFFICIENCIES IN CONTRACTING.—Section 112(b) is amended by adding at the end the following:

"(4) METHOD OF CONTRACTING.—

"(A) IN GENERAL.—

"(i) TWO-PHASE CONTRACT.—A contracting agency may award a two-phase contract for preconstruction and construction services.

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

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

"(iv) CONSTRUCTION PHASE.—If an agreement is reached under clause (iii), the contractor shall be responsible for the construction of the project or portion of the project at the negotiated price and other factors specified in regulation.

"(B) SELECTION.—A contract shall be awarded to a contractor using a competitive selection process based on qualifications, experience, best value, or any other combination of factors considered appropriate by the contracting agency.

"(C) TIMING.—

"(i) RELATIONSHIP TO NEPA PROCESS.—Prior to the completion of the process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), a contracting agency may—

"(I) issue requests for proposals;

"(II) proceed with the award of a contract for preconstruction services under subparagraph (A); and

"(III) issue notices to proceed with a preliminary design and any work related to preliminary design.

"(ii) PRECONSTRUCTION SERVICES PHASE.—If the preconstruction services phase of a contract under subparagraph (A)(ii) focuses primarily on one alternative, the Secretary shall require that the contract include appropriate provisions to achieve the objectives of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and comply with other applicable Federal laws and regulations.

"(iii) CONSTRUCTION SERVICES PHASE.—A contracting agency may not proceed with the award of the construction services phase of a contract under subparagraph (A)(iv) and may not proceed, or permit any consultant or contractor to proceed, with construction until completion of the process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(iv) APPROVAL REQUIREMENT.—Prior to authorizing construction activities, the Secretary shall approve the contracting agency's price estimate for the entire project, as well as any price agreement with the general contractor for the project or a portion of the project.

"(v) DESIGN ACTIVITIES.—A contracting agency may proceed, at its expense, with design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project. Design activities carried out under this clause shall be eligible for Federal reimbursement as a project expense in accordance with the requirements under section 109(s).".

SEC. 3007. ELIMINATION OF DUPLICATION IN HISTORIC PRESERVATION REQUIREMENTS.

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

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

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

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

SEC. 3008. FUNDING THRESHOLD.

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

"(3) FUNDING THRESHOLD.—The Secretary's approval of a project receiving funds under this title or under chapter 53 of title 49 shall not be considered a Federal action for the purposes of the National Environmental Policy Act of 1969 if such funds—

"(A) constitute 15 percent or less of the total estimated project costs; or

"(B) are less than $10,000,000.".

SEC. 3009. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

(a) FLEXIBILITY.—Section 139(b) is further amended—

(1) in paragraph (2) by inserting ", and any requirements established in this section may be satisfied," after "exercised"; and

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

"(4) PROGRAMMATIC COMPLIANCE.—At the request of a State, the Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with respect to environmental programs and permits (in lieu of project-by-project reviews).".

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

(1) in paragraph (1) by adding at the end the following: "If the project requires approval from more than one modal administration within the Department, the Secretary shall designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.";

(2) in paragraph (3) by inserting "or other approvals by the Secretary" after "chapter 53 of title 49"; and

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

"(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency in making any approval of a project subject to this section as the document required to be completed under the National Environmental Policy Act of 1969.".

(c) PARTICIPATING AGENCIES.—

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

"(4) EFFECT OF DESIGNATION.—

"(A) REQUIREMENT.—A participating agency shall comply with the requirements of this section and any schedule established under this section.

"(B) IMPLICATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

"(i) supports a proposed project; or

"(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the project.".

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

"(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

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

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.".

(d) PROJECT INITIATION.—Section 139(e) is amended by adding at the end the following: "The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for publication in the Federal Register announcing the preparation of an environmental impact statement for the project.".

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

(1) in paragraph (4)—

(A) by amending subparagraph (B) to read as follows

"(B) RANGE OF ALTERNATIVES.—

"(i) IN GENERAL.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

"(ii) LIMITATION.—The range of alternatives shall be limited to alternatives that are—

"(I) consistent with the transportation mode and general design of the project described in the long-range transportation plan or transportation improvement program prepared pursuant to section 5203 or 5204 of title 49; and

"(II) consistent with the funding identified for the project under the fiscal constraint requirements of section 5203 or 5204 of title 49.

"(iii) RESTRICTION.—A Federal agency may not require the evaluation of any alternative that was evaluated, but not adopted—

"(I) in any prior State or Federal environmental document with regard to the applicable long-range transportation plan or transportation improvement program; or

"(II) after the preparation of a programmatic or tiered environmental document that evaluated alternatives to the project.

"(iv) LEGAL SUFFICIENCY.—The evaluation of the range of alternatives shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.";

(B) in subparagraph (C)—

(i) by striking "(C) METHODOLOGIES.—The lead agency" and inserting the following:

"(C) METHODOLOGIES.—

"(i) IN GENERAL.—The lead agency";

(ii) by striking "in collaboration with participating agencies at appropriate times during the study process" and inserting "after consultation with participating agencies as part of the scoping process"; and

(iii) by adding at the end the following:

"(ii) COMMENTS.—Each participating agency shall limit comments on such methodologies to those issues that are within the authority and expertise of such participating agency.

"(iii) STUDIES.—The lead agency may not conduct studies proposed by any participating agency that are not within the authority or expertise of such participating agency."; and

(C) by adding at the end the following:

"(E) LIMITATIONS ON THE EVALUATION OF IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL DOCUMENTS.—

"(i) IN GENERAL.—The lead agency may not reevaluate, and a Federal agency may not require the reevaluation of, cumulative impacts or growth-inducing impacts where such impacts were previously evaluated in—

"(I) a long-range transportation plan or transportation improvement program developed pursuant to section 5203 or 5204 of title 49;

"(II) a prior environmental document approved by the Secretary; or

"(III) a prior State environmental document approved pursuant to a State law that is substantially equivalent to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

"(ii) LEGAL SUFFICIENCY.—The evaluation of cumulative impacts and growth inducing impacts shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph."; and

(2) by adding at the end the following:

"(5) EFFECTIVE DECISIONMAKING.—

"(A) CONCURRENCE.—At the discretion of the lead agency, a participating agency shall be presumed to concur in the determinations made by the lead agency under this subsection unless the participating agency submits an objection to the lead agency in writing within 30 days after receiving notice of the lead agency's determination and specifies the statutory basis for the objection.

"(B) ADOPTION OF DETERMINATION.—If the participating agency concurs or does not object within the 30-day period, the participating agency shall adopt the lead agency's determination for purposes of any reviews, approvals, or other actions taken by the participating agency as part of the environmental review process for the project.".

(f) COORDINATION PLAN.—Section 139(g) is amended—

(1) in paragraph (1)(A) by striking "project or category of projects" and inserting "project, category of projects, or program of projects";

(2) by amending paragraph (3) to read as follows:

"(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

"(A) PRIOR APPROVAL DEADLINE.—If a participating agency is required to make a determination regarding or otherwise approve or disapprove the project prior to the record of decision or finding of no significant impact of the lead agency, such participating agency shall make such determination or approval not later than 30 days after the lead agency publishes notice of the availability of a final environmental impact statement or other final environmental document, or not later than such other date that is otherwise required by law, whichever occurs first.

"(B) OTHER DEADLINES.—With regard to any determination or approval of a participating agency that is not subject to subparagraph (A), each participating agency shall make any required determination regarding or otherwise approve or disapprove the project not later than 90 days after the date that the lead agency approves the record of decision or finding of no significant impact for the project, or not later than such other date that is otherwise required by law, whichever occurs first.

"(C) DEEMED APPROVED.—In the event that any participating agency fails to make a determination or approve or disapprove the project within the applicable deadline described in subparagraphs (A) and (B), the project shall be deemed approved by such participating agency, and such approval shall be deemed to comply with the applicable requirements of Federal law.

"(D) JUDICIAL REVIEW.—

"(i) IN GENERAL.—An approval of a project under subparagraph (C) shall not be subject to judicial review.

"(ii) WRITTEN FINDING.—The Secretary may issue a written finding verifying the approval made in accordance with this paragraph."; and

(3) by striking paragraph (4).

(g) ISSUE IDENTIFICATION AND RESOLUTION.—Section 139(h)(4) is amended by adding at the end the following:

"(C) RESOLUTION FINAL.—

"(i) IN GENERAL.—The lead agency and participating agencies may not reconsider the resolution of any issue agreed to by the relevant agencies in a meeting under subparagraph (A).

"(ii) COMPLIANCE WITH APPLICABLE LAW.—Any such resolution shall be deemed to comply with applicable law notwithstanding that the agencies agreed to such resolution prior to the approval of the environmental document.".

(h) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—Section 139 (as amended by title I of this Act) is further amended—

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

(2) by inserting after subsection (h) the following:

"(i) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—

"(1) IN GENERAL.—The lead agency in the environmental review process for a project, in order to reduce paperwork and expedite decisionmaking, shall prepare a condensed final environmental impact statement.

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

"(A) an incorporation by reference of the draft environmental impact statement;

"(B) any updates to specific pages or sections of the draft environmental impact statement as appropriate; and

"(C) responses to comments on the draft environmental impact statement and copies of the comments.

"(3) TIMING OF DECISION.—Notwithstanding any other provision of law, in conducting the environmental review process for a project, the lead agency shall combine a final environmental impact statement and a record of decision for the project into a single document if—

"(A) the alternative approved in the record of decision is either a preferred alternative that was identified in the draft environmental impact statement or is a modification of such preferred alternative that was developed in response to comments on the draft environmental impact statement;

"(B) the Secretary has received a certification from a State under section 128, if such a certification is required for the project; and

"(C) the Secretary determines that the lead agency, participating agency, or the project sponsor has committed to implement the measures applicable to the approved alternative that are identified in the final environmental impact statement.

"(j) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND RE-EVALUATION.—

"(1) SUPPLEMENTAL ENVIRONMENTAL REVIEW.—After the approval of a record of decision or finding of no significant impact with regard to a project, an agency may not require the preparation of a subsequent environmental document for such project unless the lead agency determines that—

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

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

"(2) RE-EVALUATIONS.—The Secretary may only require the re-evaluation of a document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

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

"(B) more than 5 years has elapsed since the Secretary's prior approval of the project or authorization of project funding.

"(3) CHANGE TO RECORD OF DECISION.—After the approval of a record of decision, the Secretary may not require the record of decision to be changed solely because of a change in the fiscal circumstances surrounding the project.".

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

"(m) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary, by regulation, shall—

"(A) implement this section; and

"(B) establish methodologies and procedures for evaluating the environmental impacts, including cumulative impacts and growth-inducing impacts, of transportation projects subject to this section.

"(2) COMPLIANCE WITH APPLICABLE LAW.—Any environmental document that utilizes the methodologies and procedures established under this subsection shall be deemed to comply with the applicable requirements of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or its implementing regulations; or

"(B) any other Federal environmental statute applicable to transportation projects.".

(j) LIMITATIONS ON CLAIMS.—Section 139(n) (as redesignated by subsection (h)(1) of this section) is further amended—

(1) in paragraph (1) by striking "180 days" and inserting "90 days"; and

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

"(2) NEW INFORMATION.—The preparation of a supplemental environmental impact statement or other environmental document when required by this section shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of publication of a notice in the Federal Register announcing such action.".

(k) LIMITATIONS ON JUDICIAL RELIEF.—Section 139 is further amended by adding at the end the following:

"(o) LIMITATIONS ON JUDICIAL RELIEF.—Notwithstanding any other provision of law, the following limitations shall apply to actions brought before a court in connection with a project under this section:

"(1) Venue for any action shall be where the project is located.

"(2) A specific property interest impacted by the transportation project in question must exist in order to have standing to bring an action.

"(3) No action may be commenced by any person alleging a violation of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5 and 7 of title 5, or any other Federal law applicable to the evaluation, avoidance, or mitigation of environmental impacts of the project if such Federal law is identified in the draft environmental impact statement, unless such person provided written notice to the lead agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on the draft environmental impact statement; or

"(B) any other law with regard to the project unless such person provided written notice to the applicable approving agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on such agency approval.

"(4) Elected or appointed officials working for the Government or a State government may not be named in their individual capacities in an action if they are acting within the scope of their official duties.".

SEC. 3010. DISPOSAL OF HISTORIC PROPERTIES.

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

(1) by striking the section heading and inserting "**Sale or lease of real property**"; and

(2) by adding at the end the following:

"(d) ASSESSMENT OF ADVERSE EFFECTS.—Notwithstanding part 800 of title 36, Code of Federal Regulations, the sale or lease by a State of any historic property that is not listed in the National Register of Historic Places shall not be considered an adverse effect to the property within any consultation process carried out under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 156 and inserting the following:

"156. Sale or lease of real property.".

SEC. 3011. INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.

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

"§ 167. Integration of planning and environmental review

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

"(1) ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) PLANNING PRODUCT.—The term 'planning product' means any decision, analysis, study, or other documented result of an evaluation or decisionmaking process carried out during transportation planning.

"(3) PROJECT.—The term 'project' means any highway project or program of projects, public transportation capital project or program of projects, or multimodal project or program of projects that requires the approval of the Secretary.

"(4) PROJECT SPONSOR.—The term 'project sponsor' means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

"(b) PURPOSE AND FINDINGS.—

"(1) PURPOSE.—The purpose of this section is to establish the authority and provide procedures for achieving integrated planning and environmental review processes to—

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

"(B) foster better decisionmaking;

"(C) reduce duplication in work;

"(D) avoid delays in transportation improvements; and

"(E) better transportation and environmental results for communities and the United States.

"(2) FINDINGS.—Congress finds the following:

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

"(B) This section should be broadly construed and may be applied to any project, class of projects, or program of projects carried out under this title or chapter 53 of title 49.

"(c) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to the conditions set forth in subsection (e), the Federal lead agency for a project, at the request of the project sponsors, may adopt and use a planning product in proceedings relating to any class of action in the environmental review process of the project.

"(2) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

"(3) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product shall be made at the time the lead agencies decide the appropriate scope of environmental review for the project.

"(d) APPLICABILITY.—

"(1) PLANNING DECISIONS.—Planning decisions that may be adopted pursuant to this section include—

"(A) a purpose and need or goals and objectives statement for the project, including with respect to whether tolling, private financial assistance, or other special financial measures are necessary to implement the project;

"(B) a decision with respect to travel corridor location, including project termini;

"(C) a decision with respect to modal choice, including a decision to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;

"(D) a decision with respect to the elimination of unreasonable alternatives and the selection of the range of reasonable alternatives for detailed study during the environmental review process;

"(E) a basic description of the environmental setting;

"(F) a decision with respect to methodologies for analysis; and

"(G) identifications of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with Federal, State, local, and tribal resource agencies, determines are most effectively addressed at a regional or national program level, including—

"(i) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation investments on environmental resources, including regional ecosystem and water resources; and

"(ii) potential mitigation activities, locations, and investments.

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

"(A) travel demands;

"(B) regional development and growth;

"(C) local land use, growth management, and development;

"(D) population and employment;

"(E) natural and built environmental conditions;

"(F) environmental resources and environmentally sensitive areas;

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

"(H) mitigation needs for a proposed action, or for programmatic level mitigation, for potential effects that the Federal lead agency determines are most effectively addressed at a regional or national program level.

"(e) CONDITIONS.—Adoption and use of a planning product under this section is subject to a determination by the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, that the following conditions have been met:

"(1) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

"(2) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects.

"(3) During the planning process, notice was provided through publication or other means to Federal, State, and local government agencies and tribal governments that might have an interest in the proposed project, and to members of the general public, of the planning products that the planning process might produce and that might be relied on during the environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

"(4) Prior to determining the scope of environmental review for the project, the joint lead agencies have made documentation relating to the planning product available to Federal, State, and local governmental agencies and tribal governments that may have an interest in the proposed action, and to members of the general public.

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

"(6) The planning product is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

"(7) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

"(8) The planning product is appropriate for adoption and use in the environmental review process for the project.

"(f) EFFECT OF ADOPTION.—Notwithstanding any other provision of law, any planning product adopted by the Federal lead agency in accordance with this section shall not be reconsidered or made the subject of additional interagency consultation during the environmental review process of the project unless the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the adopted planning product. Any planning product adopted by the Federal lead agency in accordance with this section may be relied upon and used by other Federal agencies in carrying out reviews of the project.

"(g) RULE OF CONSTRUCTION.—This section may not be construed to make the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to the transportation planning process conducted under chapter 52 of title 49. Initiation of the National Environmental Policy Act of 1969 process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the National Environmental Policy Act of 1969 process. This section may not be construed to affect the use of planning products in the National Environmental Policy Act of 1969 process pursuant to other authorities under law or to restrict the initiation of the National Environmental Policy Act of 1969 process during planning.".

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

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

SEC. 3012. DEVELOPMENT OF PROGRAMMATIC MITIGATION PLANS.

(a) IN GENERAL.—Chapter 1 (as amended by this title) is further amended by adding at the end the following:

"§ 168. Development of programmatic mitigation plans

"(a) IN GENERAL.—As part of the statewide or metropolitan transportation planning process, a State or metropolitan planning organization may develop one or more programmatic mitigation plans to address the potential environmental impacts of future transportation projects.

"(b) SCOPE.—

"(1) SCALE.—A programmatic mitigation plan may be developed on a regional, ecosystem, watershed, or statewide scale.

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

"(3) PROJECT IMPACTS.—The plan may address impacts from all projects in a defined geographic area or may focus on a specific type of project, such as bridge replacements.

"(4) CONSULTATION.—The scope of the plan shall be determined by the State or metropolitan planning organization, as appropriate, in consultation with the agency or agencies with jurisdiction over the resources being addressed in the mitigation plan.

"(c) CONTENTS.—A programmatic mitigation plan may include—

"(1) an assessment of the condition of environmental resources in the geographic area covered by the plan, including an assessment of recent trends and any potential threats to those resources;

"(2) an assessment of potential opportunities to improve the overall quality of environmental resources in the geographic area covered by the plan, through strategic mitigation for impacts of transportation projects;

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

"(4) parameters for determining appropriate mitigation for certain types of impacts, such as mitigation ratios or criteria for determining appropriate mitigation sites;

"(5) adaptive management procedures, such as protocols that involve monitoring predicted impacts over time and adjusting mitigation measures in response to information gathered through the monitoring; and

"(6) acknowledgment of specific statutory or regulatory requirements that must be satisfied when determining appropriate mitigation for certain types of resources.

"(d) PROCESS.—Before adopting a programmatic mitigation plan, a State or metropolitan planning organization shall—

"(1) consult with the agency or agencies with jurisdiction over the environmental resources considered in the programmatic mitigation plan;

"(2) make a draft of the plan available for review and comment by applicable environmental resource agencies and the public;

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

"(4) address such comments in the final plan.

"(e) INTEGRATION WITH OTHER PLANS.—A programmatic mitigation plan may be integrated with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, and land use plans.

"(f) CONSIDERATION IN PROJECT DEVELOPMENT AND PERMITTING.—If a programmatic mitigation plan has been developed pursuant to this section, any Federal agency responsible for environmental reviews, permits, or approvals for a transportation project shall give substantial weight to the recommendations in a programmatic mitigation plan when carrying out their responsibilities under applicable laws.

"(g) PRESERVATION OF EXISTING AUTHORITIES.—Nothing in this section limits the use of programmatic approaches to reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

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

"168. Development of programmatic mitigation plans.".

SEC. 3013. STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

Section 326(a) is amended—

(1) in paragraph (2) by striking "and only for types of activities specifically designated by the Secretary" and inserting "and for any type of activity for which a categorical exclusion classification is appropriate"; and

(2) by adding at the end the following:

"(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego project delivery methods that are otherwise permissible for highway projects.".

SEC. 3014. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.

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

(1) in the section heading by striking "**pilot**"; and

(2) in subsection (a)(1) by striking "pilot".

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

(1) in subparagraph (A) by striking "highway";

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

"(ii) the Secretary may not assign any responsibility imposed on the Secretary by section 5203 or 5204 of title 49."; and

(3) by adding at the end the following:

"(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for projects.".

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

(1) by amending paragraph (1) to read as follows:

"(1) PARTICIPATING STATES.—All States are eligible to participate in the program."; and

(2) in paragraph (2) by striking "this section, the Secretary shall promulgate" and inserting "amendments to this section by the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall amend, as appropriate,".

(d) WRITTEN AGREEMENT.—Section 327(c) is amended—

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

(2) by adding at the end the following:

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

"(5) be renewable.".

(e) CONFORMING AMENDMENT.—Section 327(e) is amended by striking "subsection (i)" and inserting "subsection (j)".

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

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

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

(2) by inserting after subsection (g) the following:

"(h) MONITORING.—After the fourth year of the participation of a State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.".

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

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

"(1) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(2) the Secretary provides to the State—

"(A) notification of the determination of noncompliance; and

"(B) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(3) the State, after the notification and period provided under paragraph (2), fails to take satisfactory corrective action, as determined by the Secretary.".

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

"(k) DEFINITIONS.—In this section, the following definitions apply:

"(1) MULTIMODAL PROJECT.—The term 'multimodal project' means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.

"(2) PROJECT.—The term 'project' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.".

(j) CLERICAL AMENDMENT.—The analysis for chapter 3 is amended by striking the item relating to section 327 and inserting the following:

"327. Surface transportation project delivery program.".

SEC. 3015. PROGRAM FOR ELIMINATING DUPLICATION OF ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—Chapter 3 (as amended by title I of this Act) is further amended by adding at the end the following:

"§ 331. Program for eliminating duplication of environmental reviews

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of projects. Under this program, a State may use State laws and procedures to conduct reviews and make approvals in lieu of Federal environmental laws and regulations, consistent with the provisions of this section.

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

"(3) SCOPE OF ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.—For purposes of this section, alternative environmental review and approval procedures may include one or more of the following:

"(A) Substitution of one or more State environmental laws for one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State environmental laws provide environmental protection and opportunities for public involvement that are substantially equivalent to the applicable Federal environmental laws.

"(B) Substitution of one or more State regulations for Federal regulations implementing one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State regulations provide environmental protection and opportunities for public involvement that are substantially equivalent to the Federal regulations.

"(b) APPLICATION.—To participate in the program, a State shall submit to the Secretary an application containing such information as the Secretary may require, including—

"(1) a full and complete description of the proposed alternative environmental review and approval procedures of the State;

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

"(3) evidence of having sought, received, and addressed comments on the proposed application from the public and appropriate Federal environmental resource agencies.

"(c) REVIEW OF APPLICATION.—The Secretary shall—

"(1) review an application submitted under subsection (b);

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

"(3) transmit to the State notice of the approval or disapproval, together with a statement of the reasons for the approval or disapproval.

"(d) APPROVAL OF STATE PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall approve each such application if the Secretary finds that the proposed alternative environmental review and approval procedures of the State are substantially equivalent to the applicable Federal environmental laws and Federal regulations.

"(2) EXCLUSION.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall not apply to any decision by the Secretary to approve or disapprove any application submitted pursuant to this section.

"(e) COMPLIANCE WITH PERMITS.—Compliance with a permit or other approval of a project issued pursuant to a program approved by the Secretary under this section shall be deemed compliance with the Federal laws and regulations identified in the program approved by the Secretary pursuant to this section.

"(f) REVIEW AND TERMINATION.—

"(1) REVIEW.—All State alternative environmental review and approval procedures approved under this section shall be reviewed by the Secretary not less than once every 5 years.

"(2) PUBLIC NOTICE AND COMMENT.—In conducting the review process under paragraph (1), the Secretary shall provide notice and an opportunity for public comment.

"(3) EXTENSIONS AND TERMINATIONS.—At the conclusion of the review process, the Secretary may extend the State alternative environmental review and approval procedures for an additional 5-year period or terminate the State program.

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

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

"(1) ENVIRONMENTAL LAW.—The term 'environmental law' includes any law that provides procedural or substantive protection, as applicable, for the natural or built environment with regard to the construction and operation of projects.

"(2) FEDERAL ENVIRONMENTAL LAWS.—The term 'Federal environmental laws' means laws governing the review of environmental impacts of, and issuance of permits and other approvals for, the construction and operation of projects, including section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the Federal Water Pollution Control Act (33

U.S.C. 1344), section 106 of the National Historic Preservation Act (16 U.S.C. 470f), and sections 7(a)(2), 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B), 1539(a)(1)(B)).

"(3) MULTIMODAL PROJECT.—The term 'multimodal project' means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.

"(4) PROJECT.—The term 'project' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.".

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

"331. Program for eliminating duplication of environmental reviews.".

SEC. 3016. STATE PERFORMANCE OF LEGAL SUFFICIENCY REVIEWS.

(a) IN GENERAL.—Chapter 3 (as amended by this title) is further amended by adding at the end the following:

"§ 332. State performance of legal sufficiency reviews

"(a) IN GENERAL.—At the request of any State transportation department, the Federal Highway Administration shall enter into an agreement with the State transportation department to authorize the State to carry out the legal sufficiency reviews for environmental impact statements and environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with this section.

"(b) TERMS OF AGREEMENT.—An agreement authorizing a State to carry out legal sufficiency reviews for Federal-aid highway projects shall contain the following provisions:

"(1) A finding by the Federal Highway Administration that the State has the capacity to carry out legal sufficiency reviews that are equivalent in quality and consistency to the reviews that would otherwise be conducted by attorneys employed by such Administration.

"(2) An oversight process, including periodic reviews conducted by attorneys employed by such Administration, to evaluate the quality of the legal sufficiency reviews carried out by the State transportation department under the agreement.

"(3) A requirement for the State transportation department to submit a written finding of legal sufficiency to the Federal Highway Administration concurrently with the request by the State for Federal approval of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) document.

"(4) An opportunity for the Federal Highway Administration to conduct an additional legal sufficiency review for any project, for not more than 30 days, if considered necessary by the Federal Highway Administration.

"(5) Procedures allowing either party to the agreement to terminate the agreement for any reason with 30 days notice to the other party.

"(c) EFFECT OF AGREEMENT.—A legal sufficiency review carried out by a State transportation department under this section shall be deemed by the Federal Highway Administration to satisfy the requirement for a legal sufficiency review in sections 771.125(b) and 774.7(d) of title 23, Code of Federal Regulations, or other applicable regulations issued by the Federal Highway Administration.".

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

"332. State performance of legal sufficiency reviews.".

SEC. 3017. CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—The Secretary shall treat an activity carried out under title 23, United States Code, or project within a right-of-way as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 771.117(c) of title 23, Code of Federal Regulations.

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

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

(2) PROJECT.—The term "project" means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

SEC. 3018. ENVIRONMENTAL REVIEW PROCESS DEADLINE.

(a) IN GENERAL.—

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

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

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

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

(b) APPEAL.—In this section, the following rules shall apply:

(1) There shall be a single administrative appeal for the environmental review process carried out pursuant to this section.

(2) Upon resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

(3) An appeal to the court specified in paragraph (2) shall be based only on the administrative record.

(4) After an agency has made a final decision with respect to the environmental review process carried out under this section, that decision shall be effective during the course of any subsequent appeal to a court specified in paragraph (2).

(5) All civil actions arising under this section shall be considered to arise under the laws of the United States.

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

(1) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term "environmental review process" means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) INCLUSIONS.—The term "environmental review process" includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) LEAD AGENCY.—The term "lead agency" means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.

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

(4) PROJECT.—The term "project" means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

SEC. 3019. RELOCATION ASSISTANCE.

(a) ALTERNATIVE RELOCATION PAYMENT PROCESS.—

(1) ESTABLISHMENT.—For the purpose of identifying improvements in the timeliness of providing relocation assistance to persons displaced as a result of Federal or federally-assisted programs and projects, the Secretary shall establish an alternative relocation payment process under which payments to displaced persons eligible for relocation assistance pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), are calculated based on reasonable estimates and paid in advance of the physical displacement of the displaced person.

(2) PAYMENTS.—

(A) TIMING OF PAYMENTS.—Relocation assistance payments may be provided to the displaced person at the same time as payments of just compensation for real property acquired for a program or project of the State.

(B) COMBINED PAYMENT.—Payments for relocation and just compensation may be combined into a single unallocated amount.

(3) CONDITIONS FOR STATE USE OF ALTERNATIVE PROCESS.—

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

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

(i) the selection of projects or programs within the State to which the alternative relocation payment process will be applied;

(ii) program and project-level monitoring;

(iii) performance measurement;

(iv) reporting requirements; and

(v) the circumstances under which the Secretary may terminate or suspend the authority of the State to use the alternative relocation payment process.

(C) REQUIRED INFORMATION.—A State may use the alternative relocation payment process only after the displaced persons affected by a program or project—

(i) are informed in writing—

(I) that the relocation payments the displaced persons receive under the alternative relocation payment process may be higher or lower than the amount that the displaced persons would have received under the standard relocation assistance process; and

(II) of their right not to participate in the alternative relocation payment process; and

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

(D) ELECTION NOT TO PARTICIPATE.—The displacing agency shall provide any displaced person who elects not to participate in the alternative relocation payment process with relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(4) PROTECTIONS AGAINST INCONSISTENT TREATMENT.—If other Federal agencies plan displacements in or adjacent to an area of a project using the alternative relocation payment process within the same time period as a project acquisition and relocation action of the project, the Secretary shall adopt measures to protect against inconsistent treatment of displaced persons. Such measures may include a determination that the alternative relocation payment process authority may not be used on a specific project.

(5) REPORT.—

(A) IN GENERAL.—The Secretary shall submit to Congress an annual report on the implementation of the alternative relocation payment process.

(B) CONTENTS.—The report shall include an evaluation of the merits of the alternative relocation payment process, including the effects of the alternative relocation payment process on—

(i) displaced persons and the protections afforded to such persons by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.);

(ii) the efficiency of the delivery of Federal-aid highway projects and overall effects on the Federal-aid highway program; and

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

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

(7) NEPA APPLICABILITY.—Notwithstanding any other provision of law, the use of the alternative relocation payment process established under this section on a project funded under title 23, United States Code, and administered by the Federal Highway Administration is not a major Federal action requiring analysis or approval under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) UNIFORM RELOCATION ASSISTANCE ACT AMENDMENTS.—

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

(A) in subsection (a)(4) by striking "$10,000" and inserting "$25,000, as adjusted by regulation, in accordance with section 213(d)"; and

(B) in the second sentence of subsection (c) by striking "$20,000" and inserting "$40,000, as adjusted by regulation, in accordance with section 213(d)".

(2) REPLACEMENT HOUSING FOR HOMEOWNERS.—The first sentence of section 203(a)(1) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4623(a)(1)) is amended by—

(A) striking "$22,500" and inserting "$31,000, as adjusted by regulation, in accordance with section 213(d),"; and

(B) striking "one hundred and eighty days prior to" and inserting "90 days before".

(3) REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.—Section 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4624) is amended—

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

(B) in the second sentence of subsection (b) by striking ", except" and all that follows through the end of the subsection and inserting a period.

(4) DUTIES OF LEAD AGENCY.—Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended—

(A) in subsection (b)—

(i) in paragraph (2) by striking "and";

(ii) in paragraph (3) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of this Act shall provide to the lead agency an annual summary report that describes the activities conducted by the Federal agency."; and

(B) by adding at the end the following:

"(d) ADJUSTMENT OF PAYMENTS.—The head of the lead agency may adjust, by regulation, the amounts of relocation payments provided under sections 202(a)(4), 202(c), 203(a), and 204(a) if the head of the lead agency determines that cost of living, inflation, or other factors indicate that the payments should be adjusted to meet the policy objectives of this Act.".

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

"SEC. 214. AGENCY COORDINATION.

"(a) AGENCY CAPACITY.—Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to manage and oversee the relocation and acquisition program of the Federal agency in accordance with this Act.

"(b) INTERAGENCY AGREEMENTS.—Not later than 1 year after the date of the enactment of this section, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that—

"(1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that provides Federal financial assistance, may include personnel of any displacing agency that receives Federal financial assistance;

"(2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with this Act on a program or project basis; and

"(3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

"(c) INTERAGENCY PAYMENTS.—

"(1) IN GENERAL.—For the fiscal year that begins 1 year after the date of the enactment of this section, and each fiscal year thereafter, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than $35,000, to support the training, assistance, and coordination activities of the lead agency described in subsection (b).

"(2) INCLUDED COSTS.—The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.".

(c) COOPERATION WITH FEDERAL AGENCIES.—Section 308(a) is amended to read as follows:

"(a) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—The Secretary may perform, by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Federal agencies, cooperating foreign countries, and State cooperating agencies.

"(2) INCLUSIONS.—Services authorized under paragraph (1) may include activities authorized under section 214 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(3) REIMBURSEMENT.—Reimbursement for services carried out under this subsection, including depreciation on engineering and road-building equipment, shall be credited to the applicable appropriation.".

TITLE IV—TRANSPORTATION PLANNING

SEC. 4001. TRANSPORTATION PLANNING.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by inserting after chapter 51 the following:

"CHAPTER 52—TRANSPORTATION PLANNING

"Sec.
"5201. Policy.
"5202. Definitions.
"5203. Metropolitan transportation planning.
"5204. Statewide transportation planning.
"5205. National strategic transportation plan.
"5206. National performance management system.

"§ 5201. Policy

"(a) IN GENERAL.—It is in the national interest to—

"(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

"(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transportation operators as guided by the planning factors identified in sections 5203(f) and 5204(d).

"(b) COMMON TRANSPORTATION PLANNING PROGRAM.—This chapter provides a common transportation planning program to be administered by the Federal Highway Administration and the Federal Transit Administration.

"§ 5202. Definitions

"In this chapter, the following definitions apply:

"(1) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under section 5203(c).

"(2) METROPOLITAN LONG-RANGE TRANSPORTATION PLAN.—The term 'metropolitan long-range transportation plan' means a long-range transportation plan developed by an MPO under section 5203 for a metropolitan planning area.

"(3) METROPOLITAN PLANNING ORGANIZATION; MPO.—The term 'metropolitan planning organization' or 'MPO' means the policy board of an organization created as a result of the designation process in section 5203(b).

"(4) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM; METROPOLITAN TIP.—The term 'metropolitan transportation improvement program' or 'metropolitan TIP' means a transportation improvement program developed by an MPO under section 5203 for a metropolitan planning area.

"(5) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means a geographic area outside designated metropolitan planning areas.

"(6) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

"(7) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term 'regional transportation planning organization' means a policy board of an organization created as the result of a designation under section 5204(k).

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(9) STATE.—The term 'State' means any of the 50 States, the District of Columbia, or Puerto Rico.

"(10) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—The term 'statewide strategic long-range transportation plan' means a strategic long-range transportation plan developed by a State under section 5204 for all areas of the State.

"(11) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM; STATEWIDE TIP.—The term 'statewide transportation improvement program' or 'statewide TIP' means a transportation improvement program developed by a State under section 5204 for all areas of the State.

"(12) URBANIZED AREA.—The term 'urbanized area' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

"§ 5203. Metropolitan transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF METROPOLITAN LONG-RANGE PLANS AND TIPS.—To accomplish the objectives set forth in section 5201, metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transportation operators, shall develop metropolitan long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

"(2) CONTENTS.—Metropolitan long-range transportation plans and TIPs shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan long-range transportation plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) DESIGNATION OF MPOS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, an MPO shall be designated for an urbanized area with a population of more than 100,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—An MPO that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop metropolitan long-range transportation plans or TIPs for adoption by an MPO; and

"(B) develop long-range capital plans, coordinate public transportation services or projects, or carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—A designation of an MPO under this subsection or any other provision of law shall remain in effect until the MPO is redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government that together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION PROCEDURES.—An MPO may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

"(6) DESIGNATION OF MULTIPLE MPOS.—More than 1 MPO may be designated within an existing metropolitan planning area only if the Governor and the existing MPO determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 MPO for the area appropriate.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the MPO and the Governor.

"(2) INCLUDED AREA.—A metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan long-range transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing MPO.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of August 10, 2005, the boundaries of the metropolitan planning area in existence as of such date shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected MPOs in the manner described in subsection (b)(5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after August 10, 2005, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in the manner described in subsection (b)(1);

"(B) shall encompass the areas described in subsection (c)(2)(A);

"(C) may encompass the areas described in subsection (c)(2)(B); and

"(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage a Governor with responsibility for a portion of a multistate metropolitan area and the appropriate MPOs to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

"(e) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

"(1) NONATTAINMENT AREAS.—If more than 1 MPO has authority within a metropolitan area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each MPO shall consult with the other MPOs designated for such area and the State in the coordination of metropolitan long-range transportation plans and TIPs.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN AREAS REPRESENTED BY MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of this title, is located within the boundaries of more than 1 metropolitan planning area, the MPOs shall coordinate metropolitan long-range transportation plans and TIPs regarding the transportation improvement.

"(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage an MPO to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, metropolitan long-range transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design

and delivery of transportation services within the metropolitan area that are provided by—

"(A) recipients of assistance under chapter 53;

"(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(C) recipients of assistance under sections 202 and 203 of title 23.

"(f) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

"(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and for freight;

"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

"(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

"(G) promote efficient system management and operation, including through the use of intelligent transportation systems;

"(H) emphasize the preservation of the existing transportation system; and

"(I) support intermodal facilities or facilitate regional growth.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, chapter 53 of this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan long-range transportation plan or TIP, a project or strategy, or the certification of a planning process.

"(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) EXISTING AND FORMER NONATTAINMENT AREAS.—An MPO shall prepare and update a metropolitan long-range transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The MPO shall prepare and update the plan every 4 years (or more frequently, if the MPO elects to update more frequently) in the case of each of the following:

"(i) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(ii) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

"(B) OTHER AREAS.—In the case of any other area required to have a metropolitan long-range transportation plan, the MPO shall prepare and update the plan every 5 years unless the MPO elects to update more frequently.

"(2) LONG-RANGE TRANSPORTATION PLAN.—A metropolitan long-range transportation plan shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

"(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the plan, the MPO shall consider factors described in subsection (f) and other relevant data and factors disseminated by the Secretary pursuant to section 5205(b) as such factors relate to a 20-year forecast period.

"(B) MITIGATION ACTIVITIES.—

"(i) IN GENERAL.—A metropolitan long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, includ-

ing activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

"(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

"(C) FINANCIAL PLAN.—

"(i) IN GENERAL.—A financial plan that—

"(I) demonstrates how the adopted metropolitan long-range transportation plan can be implemented;

"(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the metropolitan long-range transportation plan;

"(III) recommends any additional financing strategies for needed projects and programs; and

"(IV) may include, for illustrative purposes, additional projects that would be included in the adopted metropolitan long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(ii) ESTIMATES OF FUNDS.—For the purpose of developing the metropolitan long-range transportation plan, the MPO, public transportation operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

"(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

"(3) INTERCITY BUS.—A metropolitan long-range transportation plan shall consider the role intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

"(4) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the MPO shall coordinate the development of a metropolitan long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

"(5) CONSULTATION; COMPARISONS.—

"(A) CONSULTATION.—A metropolitan long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

"(B) COMPARISONS.—Consultation under subparagraph (A) shall involve, as appropriate, a comparison of the metropolitan long-range transportation plan—

"(i) to State conservation plans and maps, if available; and

"(ii) to inventories of natural and historic resources, if available.

"(6) PARTICIPATION BY INTERESTED PARTIES.—

"(A) IN GENERAL.—An MPO shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, including intercity bus services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on its metropolitan long-range transportation plan.

"(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan shall—

"(i) be developed in consultation with all interested parties; and

"(ii) provide that all interested parties have reasonable opportunities to comment on the contents of the metropolitan long-range transportation plan.

"(C) METHODS.—In carrying out subparagraph (A), the MPO shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the Internet, as appropriate to afford a reasonable opportunity for consideration of public information under subparagraph (A).

"(7) PUBLICATION.—A metropolitan long-range transportation plan involving Federal participation shall be published or otherwise made readily available by the MPO for public review (including to the maximum extent practicable in electronically accessible formats and means, such as the Internet) approved by the MPO, and submitted for information purposes to the Governor, at such times and in such manner as the Secretary shall establish.

"(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or MPO shall not be required to select any project from the illustrative list of additional projects included in the financial plan under such paragraph.

"(h) METROPOLITAN TIP.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the MPO designated for a metropolitan area shall develop a metropolitan TIP for the area for which the organization is designated.

"(B) OPPORTUNITY FOR COMMENT.—In developing the metropolitan TIP, the MPO, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (g)(6).

"(C) FUNDING ESTIMATES.—For the purpose of developing the metropolitan TIP, the MPO, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The metropolitan TIP shall be updated at least once every 4 years and shall be approved by the MPO and the Governor.

"(2) CONTENTS.—

"(A) PRIORITY LIST.—The metropolitan TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the metropolitan TIP.

"(B) FINANCIAL PLAN.—The metropolitan TIP shall include a financial plan that—

"(i) demonstrates how the metropolitan TIP can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the metropolitan TIP;

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the approved metropolitan TIP if reasonable additional resources beyond those identified in the financial plan were available.

"(C) DESCRIPTIONS.—A project in the metropolitan TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

"(3) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER TITLE 23 AND CHAPTER 53 OF THIS TITLE.—A metropolitan TIP for an area shall include the projects within the area that are proposed for funding under chapter 1 of title 23 and chapter 53 of this title.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan TIP.

"(ii) OTHER PROJECTS.—Projects proposed for funding under such chapter that are not determined to be regionally significant shall be grouped in one line item or identified individually in the metropolitan TIP.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—A project shall be consistent with the metropolitan long-range transportation plan for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or the identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identi-

fied phase within the time period contemplated for completion of the project or the identified phase.

"(E) TIP MODIFICATIONS BY GOVERNOR.—

"(i) IN GENERAL.—Notwithstanding any other provisions of this section or section 5204, if a State and an MPO fail to agree on programming a project of statewide significance on the Interstate System (as defined in section 101(a) of title 23) into a metropolitan TIP, the Governor may modify the metropolitan TIP to add the project without approval or endorsement by the MPO.

"(ii) CONFORMING AMENDMENTS TO METROPOLITAN LONG-RANGE TRANSPORTATION PLAN.—If the Governor modifies a metropolitan TIP under clause (i), the MPO shall amend its metropolitan long-range transportation plan to be consistent with the modified metropolitan TIP.

"(4) NOTICE AND COMMENT.—Before approving a metropolitan TIP, an MPO, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (g)(5).

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the metropolitan TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out from the approved metropolitan TIP—

"(i) by—

"(I) in the case of projects under title 23, the State; and

"(II) in the case of projects under chapter 53, the designated recipients of public transportation funding; and

"(ii) in cooperation with the MPO.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved metropolitan TIP in place of another project in the program.

"(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or MPO shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

"(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or MPO to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved metropolitan TIP.

"(7) PUBLICATION.—

"(A) PUBLICATION OF TIPS.—A metropolitan TIP involving Federal participation shall be published or otherwise made readily available, including on the Internet, by the MPO for public review.

"(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects (including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) for which Federal funds have been obligated in the preceding year shall be published or otherwise made available, including on the Internet, by the cooperative effort of the State, public transportation operator, and MPO for public review. The listing shall be consistent with the categories identified in the metropolitan TIP.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) IDENTIFICATION AND DESIGNATION.—

"(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the MPO designated for the area.

"(2) LONG-RANGE TRANSPORTATION PLANS.—In a transportation management area, metropolitan long-range transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the MPO in cooperation with the State and public transportation operators.

"(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a coopera-

tively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 of this title through the use of travel demand reduction, intelligent transportation systems, and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but not sooner than 1 year after the identification of a transportation management area.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System under such title) or under chapter 53 of this title shall be selected for implementation from the approved metropolitan TIP by the MPO designated for the area in consultation with the State and any affected public transportation operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System under title 23 shall be selected for implementation from the approved metropolitan TIP by the State in cooperation with the MPO designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of an MPO serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a metropolitan TIP for the metropolitan planning area that has been approved by the MPO and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF PROJECT FUNDS.—If the metropolitan planning process of an MPO serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the MPO for projects funded under title 23 and chapter 53 of this title.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan long-range transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of title 23, this chapter, or chapter 53 of this title, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

"(l) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to confer on an MPO the authority to impose legal requirements on any

transportation facility, provider, or project not eligible under title 23 or chapter 53 of this title.

"(m) FUNDING.—Funds set aside under section 104(f) of title 23 or section 5305(g) of this title shall be available to carry out this section.

"(n) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since metropolitan long-range transportation plans and TIPs are subject to a reasonable opportunity for public comment, since individual projects included in such plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning such plans and TIPs have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning such plans and TIPs shall not be considered to be a Federal action subject to review under that Act.

"§ 5204. Statewide transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5201, a State shall develop a statewide strategic long-range transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 5203.

"(2) CONTENTS.—Statewide strategic long-range transportation plans and TIPs shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing statewide strategic long-range transportation plans and TIPs shall provide for consideration of all modes of transportation and the policies stated in section 5201, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

"(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5203 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

"(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) INTERSTATE AGREEMENTS.—

"(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—A State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and freight;

"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

"(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

"(G) promote efficient system management and operation, including through the use of intelligent transportation systems; and

"(H) emphasize the preservation of the existing transportation system.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, chapter 53 of this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide strategic long-range transportation plan or TIP, a project or strategy, or the certification of a planning process.

"(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, a State shall, at a minimum—

"(1) with respect to nonmetropolitan areas, cooperate with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k);

"(2) consider the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordinate statewide long-range transportation plans and TIPs and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

"(f) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—A State shall develop a statewide strategic long-range transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal interconnected transportation system of the State.

"(B) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN REQUIREMENTS.—

"(i) NATIONAL TRANSPORTATION STATISTICS.—In developing a statewide strategic long-range transportation plan, the State shall consider the data and factors disseminated by the Secretary pursuant to section 5205(b) for that particular State.

"(ii) TRANSPORTATION PROJECTS THAT ARE OF STATEWIDE, REGIONAL, AND NATIONAL IMPORTANCE.—The State shall identify transportation projects across all modes of transportation in the State that have statewide, regional, and national significance. In identifying these projects, the State shall consider the factors described in section 5205(b).

"(iii) STATES WITH CONGESTED AIRPORTS.—If a State has an airport in its jurisdiction that had at least 1 percent of all delayed aircraft operations in the United States, as identified by the Federal Aviation Administration's Airport Capacity Benchmark Report, the statewide strategic long-range transportation plan shall include measures to alleviate congestion at that airport either through expansion or the development of additional facilities.

"(iv) STATES WITH CONGESTED FREIGHT RAIL CORRIDORS.—If data from the Department of Transportation and the freight railroad industry project that a State has freight railroad corridors that operate at levels of service that are at or exceed capacity, the statewide strategic long-range transportation plan shall include measures by which the State department of transportation and the freight railroads provide relief for the congested corridors.

"(v) STATES WITH DEEP DRAFT PORTS.—If a State has a deep draft port, the statewide strategic long-range transportation plan shall take into account any plan for expansion at that port and any projected increase in shipping traffic at that port.

"(vi) STATES WITH NAVIGABLE INLAND WATERWAYS.—A State that has navigable inland waterways shall include in its statewide strategic long-range transportation plan any plans to use those waterways to facilitate the efficient and reliable transportation of freight and people.

"(vii) PROJECT INTERCONNECTIVITY.—In developing a statewide strategic long-range transportation plan, the State shall ensure interconnectivity for freight and passengers between different facilities and between different modes of transportation.

"(viii) COST ESTIMATES FOR PROJECTS THAT ARE OF STATEWIDE, REGIONAL, AND NATIONAL IMPORTANCE.—In developing the statewide strategic long-range transportation plan, the State shall include estimates of the costs of each of the projects identified in clause (ii).

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—The statewide strategic long-range transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5203.

"(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide strategic long-range transportation plan shall be developed in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

"(C) INDIAN TRIBAL AREAS.—With respect to an area of the State under the jurisdiction of an Indian tribal government, the statewide strategic long-range transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(D) CONSULTATION; COMPARISONS.—

"(i) CONSULTATION.—A statewide strategic long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, regional, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

"(ii) COMPARISONS.—Consultation under clause (i) shall involve, as appropriate, comparison of statewide strategic long-range transportation plans—

"(I) to State and tribal conservation plans and maps, if available; and

"(II) to inventories of natural and historic resources, if available.

"(3) PARTICIPATION BY INTERESTED PARTIES.—

"(A) IN GENERAL.—The State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, including intercity bus services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the statewide strategic long-range transportation plan.

"(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the Internet, as appropriate to afford a reasonable opportunity for consideration of public information under subparagraph (A).

"(4) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A statewide strategic long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

"(5) FINANCIAL PLAN.—The statewide strategic long-range transportation plan may include a financial plan that—

"(A) demonstrates how the adopted statewide strategic long-range transportation plan can be implemented;

"(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the statewide strategic long-range transportation plan;

"(C) recommends any additional financing strategies for needed projects and programs; and

"(D) may include, for illustrative purposes, additional projects that would be included in the adopted statewide strategic long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

"(7) EXISTING SYSTEM.—A statewide strategic long-range transportation plan should include capital, operations, and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(8) INTERCITY BUS.—A statewide strategic long-range transportation plan shall consider the role intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

"(9) PUBLICATION OF STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—A statewide strategic long-range transportation plan prepared by a State shall be published or otherwise made available, including to the maximum extent practicable in electronically accessible formats and means, such as the Internet.

"(g) STATEWIDE TIP.—

"(1) DEVELOPMENT.—A State shall develop a statewide TIP for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to a metropolitan area in the State, the program shall be developed in cooperation with the MPO designated for the metropolitan area under section 5203.

"(B) NONMETROPOLITAN AREAS.—With respect to a nonmetropolitan area in the State, the program shall be developed in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

"(C) INDIAN TRIBAL AREAS.—With respect to an area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(4) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A statewide TIP developed for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and the MPO for public review. The listing shall be consistent with the funding categories identified in each metropolitan TIP.

"(C) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the statewide TIP.

"(ii) OTHER PROJECTS.—Projects proposed for funding under such chapter that are not determined to be regionally significant shall be grouped in one line item or identified individually in the statewide TIP.

"(D) CONSISTENCY WITH STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—A project shall be—

"(i) consistent with the statewide strategic long-range transportation plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in an approved metropolitan long-range transportation plan;

"(iii) identical to the project or phase of the project as described in a metropolitan TIP approved by the Governor; and

"(iv) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under that Act.

"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The statewide TIP shall include a project, or the identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

"(F) FINANCIAL PLAN.—The statewide TIP may include a financial plan that—

"(i) demonstrates how the approved statewide TIP can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the statewide TIP;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted statewide TIP if reasonable additional resources beyond those identified in the financial plan were available.

"(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

"(ii) REQUIRED ACTION BY THE SECRETARY.—An action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved statewide TIP.

"(H) PRIORITIES.—The statewide TIP shall reflect the priorities for programming and expenditures of funds required by title 23, this chapter, and chapter 53 of this title.

"(5) PROJECT SELECTION FOR AREAS WITHOUT MPOS.—

"(A) IN GENERAL.—Except as provided by subparagraph (B), projects carried out in areas without a designated MPO shall be selected from the approved statewide TIP by the State in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

"(B) NHS PROJECTS.—Projects carried out on the National Highway System under title 23 or under sections 5311 and 5317 of this title in areas without a designated MPO shall be selected from the approved statewide TIP by the State in consultation with affected nonmetropolitan local officials.

"(6) TIP APPROVAL.—Every 4 years, a statewide TIP shall be reviewed and approved by the Secretary if based on a current planning finding.

"(7) PLANNING FINDING.—A finding shall be made by the Secretary at least once every 4 years that the transportation planning process through which statewide strategic long-range transportation plans and TIPs are developed is consistent with this section and section 5203.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide TIP in place of another project in the program.

"(h) FUNDING.—Funds set aside pursuant to sections 104(f) and 505 of title 23 and section 5305(g) of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5203, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5203 if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 5203, as appropriate.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since statewide strategic long-range transportation plans and TIPs are subject to a reasonable opportunity for public comment, individual projects included in such plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and decisions by the Secretary concerning such plans and TIPs have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning such plans and TIPS shall not be considered to be a Federal action subject to review under that Act.

"(k) DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and TIPs, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

"(2) STRUCTURE.—A regional transportation planning organization shall be established as a multi-jurisdictional organization of volunteers from nonmetropolitan local officials or their designees and representatives of local transportation systems.

"(3) REQUIREMENTS.—A regional transportation planning organization shall establish, at a minimum—

"(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees, and which shall also include, as appropriate, additional representatives from the State, private business, transportation service providers, economic development practitioners, and the public in the region; and

"(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to provide professional planning, management, and administrative support.

"(4) DUTIES.—The duties of a regional transportation planning organization shall include—

"(A) developing and maintaining, in cooperation with the State, regional long-range multimodal transportation plans;

"(B) developing a regional transportation improvement program for consideration by the State;

"(C) fostering the coordination of local planning, land use, and economic development plans with State, regional, and local transportation plans and programs;

"(D) providing technical assistance to local officials;

"(E) participating in national, multistate, and State policy and planning development processes to ensure the regional and local input of nonmetropolitan areas;

"(F) providing a forum for public participation in the statewide and regional transportation planning processes;

"(G) considering and sharing plans and programs with neighboring regional transportation planning organizations, MPOs, and, where appropriate, tribal organizations; and

"(H) conducting other duties, as necessary, to support and enhance the statewide planning process under subsection (d).

"(5) STATES WITHOUT REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—If a State chooses not to establish or designate a regional transportation planning organization, the State shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.

"§ 5205. National strategic transportation plan

"(a) DEVELOPMENT OF NATIONAL STRATEGIC TRANSPORTATION PLAN.—

"(1) DEVELOPMENT OF PLAN.—

"(A) IN GENERAL.—The Secretary, in consultation with State departments of transportation, shall develop a national strategic transportation plan (in this section referred to as the 'national plan') in accordance with the requirements of this section.

"(B) SOLICITATION.—Not later than 30 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a solicitation requesting each State department of transportation to submit to the Secretary, not later than 90 days after such date of enactment, a list of projects that the State recommends for inclusion in the national plan.

"(C) STATE SELECTION OF PROJECTS.—In selecting projects under subparagraph (B), a State department of transportation shall consider the elements of the national plan described in paragraph (2).

"(D) FAILURE TO SUBMIT RECOMMENDATIONS.—If a State does not submit a list of recommended projects in accordance with this paragraph, the Secretary shall select projects in the State that will be considered for inclusion in the national plan.

"(E) SELECTION OF PROJECTS.—Not later than 60 days after the date on which the Secretary receives a list of recommended projects from a State department of transportation under this paragraph, the Secretary shall review the list and select projects from the list for inclusion in the national plan.

"(F) BASIS FOR SELECTION.—In selecting projects for inclusion in the national plan, the Secretary shall consider, at a minimum—

"(i) the projects recommended by State departments of transportation under this paragraph;

"(ii) the ability of projects to improve mobility by increasing transportation options for passengers and freight;

"(iii) the degree to which projects create intermodal links between different modes of transportation, including passenger and freight rail, public transportation, intercity bus, airports, seaports, and navigable inland waterways; and

"(iv) the ability of projects to generate national economic benefits, including—

"(I) improvements to economic productivity through congestion relief; and

"(II) improvements to passenger and freight movement.

"(2) ELEMENTS OF NATIONAL PLAN.—

"(A) ROLE OF STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—The national plan shall be modeled after the statewide strategic long-range transportation plans developed under section 5204(f).

"(B) NATIONAL AND REGIONAL TRANSPORTATION PROJECTS.—Giving emphasis to the facilities that serve important national and regional transportation functions, the national plan shall include an identification of transportation projects (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, and intermodal connectors) that facilitate the development of—

"(i) a national transportation system; and

"(ii) an integrated regional transportation system.

"(C) INTERCONNECTIVITY BETWEEN STATES AND REGIONS.—The national plan shall ensure a level of interconnectivity among transportation facilities and strategies at State and regional borders.

"(D) IDENTIFICATION OF POTENTIAL HIGH-SPEED INTERCITY RAIL CORRIDORS AND SHIPPING ROUTES.—In developing the national plan, the Secretary, in consultation with State departments of transportation, shall identify potential high-speed passenger rail projects and potential short seas shipping routes.

"(E) INTERCITY BUS NETWORK.—The national plan shall identify projects to preserve and expand the Nation's intercity bus network and provide interconnectivity to other forms of intercity and local transportation.

"(F) AEROTROPOLIS TRANSPORTATION SYSTEMS.—The national plan shall identify aerotropolis transportation systems that will enhance economic competitiveness and exports in the United States by providing efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance for freight and passenger transportation.

"(G) COST ESTIMATES FOR PROJECTS.—In developing the national plan, the Secretary shall include estimates of the costs of each of the projects and strategies identified in the national plan and a total cost of all of the projects and strategies identified in the national plan.

"(3) ISSUANCE AND UPDATING OF NATIONAL PLAN.—

"(A) ISSUANCE.—Not later than April 30, 2014, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate the national plan developed under this section.

"(B) UPDATES.—At least once every 2 years after the date of submission of the national plan under subparagraph (A), the Secretary—

"(i) in consultation with State departments of transportation, shall update the national plan; and

"(ii) shall submit the updated national plan to the committees referred to in subparagraph (A).

"(b) DISSEMINATION OF TRANSPORTATION DATA AND STATISTICS FOR DEVELOPMENT OF STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—

"(1) IN GENERAL.—The Secretary shall develop, and disseminate to the States, relevant long-range transportation data and statistics that a State or the Secretary, as the case may be, shall use in the development of statewide, regional, and national strategic long-range transportation plans.

"(2) TYPES OF TRANSPORTATION DATA AND STATISTICS TO BE DEVELOPED.—The data and statistics referred to in paragraph (1) shall include, at a minimum, 20-year projections—

"(A) of population growth in each State;

"(B) from the Department of Transportation's Freight Analysis Framework (referred to in this paragraph as 'FAF'), including projections for annual average daily truck flow on specific highway routes;

"(C) from the Department of Transportation's Highway Performance Monitoring System (referred to in this paragraph as 'HPMS') of estimated peak period congestion on major highway routes or segments of routes and in metropolitan areas;

"(D) from HPMS and FAF of estimated traffic volumes on segments of highway that are projected to be classified as moderately or highly congested;

"(E) from HPMS and FAF for highway bottlenecks;

"(F) of public transportation use in urbanized areas, including for each urbanized area a comparison of estimated ridership growth and estimated public transportation revenue vehicle miles to available system capacity and current service levels;

"(G) of aviation passenger enplanements and cargo ton miles flown;

"(H) of increases in unmanned aerial system and general aviation active aircraft and hours flown;

"(I) of capacity-constrained airports and congested air traffic routes;

"(J) of passenger demand for suborbital space tourism;

"(K) of demand on major freight rail lines;

"(L) of shipping traffic at United States ports; and

"(M) of intercity bus and passenger rail ridership demand.

"§ 5206. National performance management system

"(a) ESTABLISHMENT OF NATIONAL PERFORMANCE MANAGEMENT SYSTEM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a national performance management system to track the Nation's progress toward broad national performance goals for the Nation's highway and public transportation systems.

"(2) COMPONENTS.—The National Performance Management System shall include the following components:

"(A) A national performance management goal.

"(B) Core performance measures.

"(C) Technical guidance.

"(D) A State performance management process, including—

"(i) performance targets;

"(ii) strategies; and

"(iii) reporting requirements.

"(b) NATIONAL PERFORMANCE MANAGEMENT GOAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish, in broad qualitative terms, a national performance management goal for the Nation's highway and public transportation systems to ensure economic growth, safety improvement, and increased mobility.

"(2) CONSISTENCY WITH NATIONAL STRATEGIC TRANSPORTATION PLAN.—The national strategic transportation plan, to the greatest extent practicable, shall be consistent with the national performance management goal.

"(c) CORE PERFORMANCE MEASURES.—

"(1) ESTABLISHMENT.—Not later than 2 years after the date of enactment of this section, the Secretary, in collaboration with the States, metropolitan planning organizations, and public transportation agencies through the process described in paragraph (4) shall establish core performance measures.

"(2) IMPLEMENTATION.—A State shall be required to implement the core performance measures as part of the State's performance management process established in subsection (e).

"(3) CATEGORIES.—The core performance measures shall include not more than 2 measures from each of the following categories:

"(A) Pavement condition on the National Highway System.

"(B) Bridge condition on the National Highway System.

"(C) Highway and motor carrier safety.

"(D) Highway safety infrastructure asset management.

"(E) Bike and pedestrian safety.

"(F) Highway congestion.

"(G) Air emissions and energy consumption.

"(H) Freight mobility.

"(I) Public transportation state of good repair.

"(J) Public transportation service availability.

"(K) Rural connectivity.

"(4) PROCESS.—The core performance measures shall be established under the following process:

"(A) At any time after the date of enactment of this section, the State departments of transportation (in consultation with metropolitan planning organizations and public transportation agencies), acting through their national organization, may jointly submit to the Secretary a complete set of recommended core performance measures for use in statewide transportation planning.

"(B) The Secretary shall give substantial weight to the recommendations submitted by the State departments of transportation, if such recommendations are submitted not later than 18 months after enactment of this section.

"(C) After consultation with the State departments of transportation regarding the recommendations, the Secretary shall issue a notice in the Federal Register announcing the Secretary's proposed set of core performance measures and providing an opportunity for comment.

"(D) After considering any comments, the Secretary shall publish a notice in the Federal Register not later than 2 years after the date of enactment of this section announcing the final set of core performance measures.

"(d) TECHNICAL GUIDANCE.—

"(1) IN GENERAL.—Not later than 6 months after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D), the Secretary shall issue technical guidance, including a uniform methodology for collecting data, for use by the States in applying the core performance measures.

"(2) DEVELOPMENT.—The Secretary shall—

"(A) develop the technical guidance in collaboration with the State departments of transportation;

"(B) give substantial weight to any recommendations submitted by the State departments of transportation through their national organization, if such recommendations are submitted not later than 3 months after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D); and

"(C) provide a reasonable opportunity for State departments of transportation to comment on the technical guidance before it is issued.

"(e) STATE PERFORMANCE MANAGEMENT PROCESS.—

"(1) ESTABLISHMENT OF PERFORMANCE TARGETS.—

"(A) INITIAL TARGETS.—Not later than 1 year after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D), a State shall amend its statewide strategic long-range transportation plan to include a target level of performance for each of the core performance measures.

"(B) REVISIONS TO TARGETS.—A State may revise its performance targets for the core performance measures at any time by amending its statewide strategic long-range transportation plan and resubmitting the plan to the Secretary.

"(2) REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—In order to improve the outcomes of the transportation planning process, the States shall implement a national performance reporting process in accordance with subparagraphs (B) and (C).

"(B) BASELINE REPORT.—Not later than 6 months after adopting its initial performance targets for the core performance measures pursuant to paragraph (1)(A), a State shall publish a baseline report including data from the most recent year for which data is available for the full set of core performance measures.

"(C) ANNUAL PROGRESS REPORTS.—Not later than 18 months after publication of the baseline report, and annually thereafter, a State shall publish a report documenting the progress that the State has made in meeting its performance targets for the core performance measures.".

(b) CONFORMING AMENDMENTS.—

(1) SUBTITLE ANALYSIS.—The analysis for subtitle III of title 49, United States Code, is amended by inserting after the item relating to chapter 51 the following:

"52. Transportation Planning ..... 5201".

(2) METROPOLITAN TRANSPORTATION PLANNING.—

(A) TITLE 23.—Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Metropolitan transportation planning

"Metropolitan transportation planning programs funded under section 104(f) shall be carried out in accordance with the metropolitan planning provisions of section 5203 of title 49.".

(B) CHAPTER 53 OF TITLE 49.—Section 5303 of title 49, United States Code, is amended to read as follows:

"§ 5303. Metropolitan transportation planning

"Metropolitan transportation planning programs funded under section 5305 shall be carried out in accordance with the metropolitan planning provisions of section 5203.".

(3) STATEWIDE TRANSPORTATION PLANNING.—

(A) TITLE 23.—Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Statewide transportation planning

"Statewide transportation planning programs funded under sections 104(f) and 505 shall be carried out in accordance with the metropolitan planning provisions of section 5204 of title 49.".

(B) CHAPTER 53 OF TITLE 49.—Section 5304 of title 49, United States Code, is amended to read as follows:

"§ 5304. Statewide transportation planning

"Statewide transportation planning programs funded under section 5305 shall be carried out in accordance with the metropolitan planning provisions of section 5204.".

SEC. 4002. SPECIAL RULES FOR SMALL METROPOLITAN PLANNING ORGANIZATIONS.

(a) CONTINUATION OF APPLICABILITY OF SECTION 134.—A metropolitan planning organization that serves an urbanized area with a population of more than 50,000 and less than 100,000 and that is subject to the provisions of section 134 of title 23, United States Code, and section 5303 of title 49, United States Code (as in effect on the day before the date of enactment of this Act), shall continue to be designated as a metropolitan planning organization subject to section 5203 of title 49, United States Code (as added by this title), unless the Governor and units of general purpose local government that together represent at least 75 percent of the affected population, including the largest incorporated city (based on population) as determined by the Bureau of the Census, agree to terminate the designation.

(b) TREATMENT.—A metropolitan planning organization described in paragraph (1) shall be treated, for purposes of title 23, United States Code, and chapters 52 and 53 of title 49, United States Code, the Transportation Equity Act for the 21st Century (Public Law 105–178), and SAFETEA–LU (Public Law 109–59) as a metropolitan planning organization that is subject to the provisions of section 5203 of title 49, United States Code (as added by this title).

SEC. 4003. FINANCIAL PLANS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue revised regulations under sections 5203 and 5204 of title 49, United States Code (as added by this title), to clarify that—

(1) a financial plan for a long-range transportation plan or transportation improvement program is required to be updated not more than once every 4 years;

(2) an amendment to a long-range transportation plan or transportation improvement program does not require a review of the entire financial plan, but rather requires only a plan for covering any incremental costs associated with the amendment;

(3) project costs and revenue estimates used in developing a financial plan for a long-range plan should be based on long-term trends, and need not be adjusted to reflect short-term fluctuations;

(4) the Department shall defer to the judgment of State and local governments regarding the magnitude of potential State and local revenue streams, including the likelihood that State or local governments will approve tax increases, tolling, bonding, or other measures to increase revenues; and

(5) the requirement for a financial plan does not give the Secretary the authority or responsibility to determine the adequacy of a State or metropolitan area's funding levels for operation and maintenance of the transportation system.

SEC. 4004. PLAN UPDATE.

Not later than September 30, 2012, a State shall update its statewide strategic long-range transportation plan to comply with the requirements of section 5205 of title 49, United States Code.

SEC. 4005. STATE PLANNING AND RESEARCH FUNDING FOR TITLE 23.

Section 505 of title 23, United States Code, is amended—

(1) in subsection (a)(5) by inserting "intercity bus," after "public transportation,"; and

(2) in subsection (b)(1) by inserting "intercity bus," after "public transportation,".

SEC. 4006. NATIONAL ACADEMY OF SCIENCES STUDY.

(a) STUDY.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study on the implementation of section 5206 of title 49, United States Code (as added by this title).

(b) CONTENTS.—The study shall—

(1) report on the timeliness of implementation, the quality and consistency of performance measurement practices, the costs of compliance, and impact on the transportation planning process;

(2) include recommendations for changes to improve implementation; and

(3) include recommendations for future additions or changes to the performance categories as described in this section.

(c) CONSULTATION.—The National Academy of Sciences shall conduct the study required under this section in consultation with the Federal Highway Administration, Federal Transit Administration, American Association of State Highway and Transportation Officials, American Public Transit Association, and Association of Metropolitan Planning Organizations.

(d) COMPLETION IN PHASES.—

(1) IN GENERAL.—The National Academy of Sciences shall complete the study in 2 phases, corresponding to the major stages of implementation of section 5206 of title 49, United States Code.

(2) PHASE I.—Phase 1 of the study shall—

(A) address implementation of performance measures; and

(B) be completed not later than 3 years after the date of enactment of this Act.

(3) PHASE II.—Phase 2 of the study shall—

(A) address implementation of performance targets, as well as performance measures; and

(B) be completed not later than 5 years after the date of enactment of this Act.

SEC. 4007. CONGESTION RELIEF.

The Secretary shall—

(1) encourage States and metropolitan planning organizations to prioritize congestion relief projects in transportation improvement programs in order to improve the flow of commerce and the productivity of the Federal-aid system; and

(2) provide technical assistance and educational materials to States to quantify the economic, environmental, and quality-of-life damage caused by traffic congestion as well as identify multiple options for solutions, including new roads and lanes, bottleneck removal, congestion reducing and, if applicable, energy efficient intelligent transportation systems, and low-cost congestion relief projects.

TITLE V—HIGHWAY SAFETY

SEC. 5001. AMENDMENTS TO TITLE 23, UNITED STATES CODE.

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

SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.

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

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, $493,312,000 for each of fiscal years 2013 through 2016.

(2) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code, $4,116,000 for each of fiscal years 2013 through 2016.

(3) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this title (including the amendments made by this title) $162,572,000 for each of fiscal years 2013 through 2016.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title (including the amendments made by this title), the amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account) for a program under that chapter shall be used

only to carry out such program and may not be used by States or local governments for construction purposes.

(c) APPLICABILITY OF CHAPTER 1.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title (including the amendments made by this title), the amounts made available under subsection (a) for each of fiscal years 2013 through 2016 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 5003. HIGHWAY SAFETY PROGRAMS.

(a) IN GENERAL.—Section 402(a) is amended to read as follows:

"(a) STATE HIGHWAY SAFETY PROGRAMS.—

"(1) IN GENERAL.—Each State shall have a highway safety program that is subject to approval by the Secretary and is designed to reduce traffic crashes and the fatalities, injuries, and property damage resulting therefrom.

"(2) UNIFORM GUIDELINES.—A State's highway safety program under paragraph (1) shall be established and carried out in accordance with uniform guidelines promulgated by the Secretary, which shall be expressed in terms of performance criteria and shall include programs—

"(A) to reduce injuries and fatalities resulting from motor vehicles being driven in excess of posted speed limits;

"(B) to encourage the proper use of occupant protection devices (including the use of seat belts and child restraints) by occupants of motor vehicles;

"(C) to reduce fatalities and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

"(D) to prevent crashes and reduce fatalities and injuries resulting from crashes involving motor vehicles and motorcycles;

"(E) to reduce crashes resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles);

"(F) to improve law enforcement activities relating to motor vehicle crash prevention, traffic supervision, and postcrash procedures;

"(G) to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the safety data of States that is needed—

"(i) for activities relating to performance targets established under subsection (m);

"(ii) to identify priorities for national, State, and local highway and traffic safety programs; and

"(iii) to improve the compatibility and interoperability of the data systems of each State with national data systems and the data systems of other States;

"(H) to improve driver performance, including through driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental), and driver licensing; and

"(I) to improve pedestrian and bicycle safety.

"(3) RECORD SYSTEM.—The uniform guidelines promulgated under paragraph (2) shall include provisions for an effective record system of—

"(A) traffic crashes, including injuries and fatalities resulting therefrom;

"(B) crash investigation activities carried out to determine the probable causes of crashes, injuries, and fatalities;

"(C) vehicle registration, operation, and inspection activities;

"(D) highway design and maintenance activities, including lighting, markings, and surface treatment activities;

"(E) traffic surveillance activities relating to the detection and correction of locations with a significant potential for crashes; and

"(F) emergency services.

"(4) APPLICABILITY OF GUIDELINES.—The uniform guidelines applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.".

(b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D) by striking "and" at the end;

(B) in subparagraph (E)—

(i) in clause (i) by striking "national law enforcement mobilizations" and inserting "any national traffic safety law enforcement mobilizations coordinated by the Secretary"; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(F) demonstrate that the State has established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems;

"(G) demonstrate that the State has developed a multiyear highway safety data and traffic records system strategic plan that—

"(i) addresses existing deficiencies in the State's highway safety data and traffic records system;

"(ii) is approved by the State's highway safety data and traffic records coordinating committee;

"(iii) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

"(iv) prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies of the State, the highway safety data and traffic records system needs and goals of the State;

"(v) identifies performance-based measures by which progress toward those goals will be determined; and

"(vi) specifies how funds apportioned to the State under subsection (c) and any other funds of the State are to be used to address needs and goals identified in the multiyear plan; and

"(H) demonstrate that an assessment or audit of the State's highway safety data and traffic records system was conducted or updated during the 5-year period ending on the date on which such State highway safety program is submitted to the Secretary for approval."; and

(2) by striking paragraph (3).

(c) APPORTIONMENT OF FUNDS.—Section 402(c) is amended to read as follows:

"(c) APPORTIONMENT OF FUNDS.—

"(1) IN GENERAL.—Funds made available to carry out this section shall be used to aid States in conducting the highway safety programs approved under subsection (a).

"(2) APPORTIONMENT FORMULA.—Funds described in paragraph (1) shall be apportioned among the States each fiscal year in the following manner:

"(A) 62.5 percent in the ratio that the population of each State bears to the total population of all States, as shown by the latest available Federal census.

"(B) 20 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States.

"(C) 10 percent only to States that have enacted and are enforcing a primary safety belt use law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

"(D) 5 percent only to States that have enacted and are enforcing an ignition interlock law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

"(E) 2.5 percent only to States that have enacted and are enforcing a graduated drivers licensing law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

"(3) MINIMUM APPORTIONMENT.—The annual apportionment under paragraph (2) to each State shall not be less than three-quarters of 1 percent of the total apportionment under that paragraph in the applicable fiscal year, except that the apportionment to the Secretary of the Interior shall not be less than 1.5 percent of the total apportionment and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

"(4) IMPLEMENTATION OF APPROVED HIGHWAY SAFETY PROGRAMS.—

"(A) REQUIREMENT FOR RECEIVING APPORTIONMENTS.—The Secretary shall not apportion any funds under this section to any State that is not implementing a highway safety program approved by the Secretary under this section.

"(B) LIMITATIONS ON REQUIREMENTS RELATING TO MOTORCYCLE SAFETY HELMETS.—A highway safety program approved by the Secretary shall not include any requirement that a State implement such program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section that requires any motorcycle operator 18 years of age or older or passenger 18 years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State.

"(C) COMPLIANCE WITH IMPLEMENTATION REQUIREMENTS.—Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline promulgated under this section, or with every element of every uniform guideline, in every State.

"(D) MINIMUM REQUIREMENTS FOR IMPAIRED DRIVING HIGH RANGE STATES.—An impaired driving high range State shall expend in a fiscal year, on projects and activities addressing impaired driving, at least 30 percent of the funds apportioned to that State under paragraph (2) for that fiscal year.

"(E) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

"(i) PROHIBITION.—A State may not expend funds apportioned to that State under paragraph (2) to carry out any program to purchase, operate, or maintain an automated traffic enforcement system.

"(ii) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this subparagraph, the term 'automated traffic enforcement system' means automated technology that monitors compliance with traffic laws.".

(d) MISCELLANEOUS.—Section 402 is amended—

(1) in subsection (d) by striking "(d) All provisions" and inserting "(d) APPLICABILITY OF CERTAIN PROVISIONS.—All provisions";

(2) in subsection (e) by striking "(e) Uniform guidelines" and inserting "(e) COOPERATION.—Uniform guidelines";

(3) in subsection (f) by striking "(f) The Secretary" and inserting "(f) DEPARTMENT AND AGENCY PARTICIPATION.—The Secretary";

(4) in subsection (g)—

(A) by striking "(g) Nothing in" and inserting "(g) LIMITATION ON FUNDS.—Nothing in";

(B) by striking "for (1) highway construction" and inserting "for highway construction"; and

(C) by striking "guidelines) or" and all that follows before the period at the end and inserting "guidelines) or for any purpose for which funds are authorized under section 403(a)";

(5) by striking subsection (k); and

(6) by redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

(e) HIGHWAY SAFETY PERFORMANCE MANAGEMENT.—Section 402 (as amended by this Act) is further amended by adding at the end the following:

"(m) ESTABLISHMENT OF PERFORMANCE TARGETS.—

"(1) IN GENERAL.—The Governor of each State shall establish quantifiable performance targets for their State—

"(A) to be incorporated into the highway safety plan of the State under subsection (n) each year; and

"(B) with respect to, at a minimum—

"(i) the average number of fatalities in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled;

"(ii) the average number of serious injuries in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled;

"(iii) the average number of traffic fatalities in the State involving drivers or motorcycle operators with a blood alcohol content of .08 or above per 100,000,000 vehicle miles traveled;

"(iv) the average number of traffic crashes in the State involving drivers or motorcycle operators with a blood alcohol content of .08 or above per 100,000,000 vehicle miles traveled;

"(v) the average number of unrestrained motor vehicle occupant fatalities, for all seat positions, in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled; and

"(vi) the average number of motorcyclist fatalities in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled.

"(2) CONSIDERATIONS IN ESTABLISHING PERFORMANCE TARGETS.—In establishing performance targets for a State under this subsection, a Governor shall consider, at a minimum—

"(A) the number of fatalities in the State resulting from traffic crashes during the preceding 3 years;

"(B) the number of serious injuries in the State resulting from traffic crashes during the preceding 3 years;

"(C) the extent to which vehicle miles traveled in the State may impact the number of fatalities and serious injuries in the State resulting from traffic crashes; and

"(D) data available from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration.

"(n) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—With respect to fiscal year 2014, and each fiscal year thereafter, the Secretary shall require the Governor of each State, as a condition of the approval of the State's highway safety program for that fiscal year, to develop and submit to the Secretary for approval a highway safety plan applicable to that fiscal year in accordance with this subsection. The plan required under this paragraph may be incorporated into any other document required to be submitted under this section.

"(2) TIMING.—Each Governor shall submit to the Secretary the highway safety plan of their State not later than September 1 of the fiscal year preceding the fiscal year to which the plan applies.

"(3) CONTENTS.—A State's highway safety plan shall include, at a minimum—

"(A) current data with respect to each performance target established for the State under subsection (m);

"(B) for the fiscal year preceding the fiscal year to which the plan applies, a description of the State's performance regarding each performance target category described in subsection (m)(1)(B);

"(C) for the fiscal year preceding the fiscal year to which the plan applies, a description of the projects and activities for which the State obligated funding apportioned to the State under this section;

"(D) for the fiscal year to which the plan applies, the State's strategy for using funds apportioned to the State under this section for projects and activities that will allow the State to meet the performance targets established for the State under subsection (m);

"(E) data and data analysis supporting the effectiveness of projects and activities proposed in the strategy under subparagraph (D);

"(F) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the State's strategy under subparagraph (D); and

"(G) a certification that the State will maintain its aggregate expenditures for highway safety activities, from sources other than funds apportioned to the State under this section, at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this subsection.

"(4) REVIEW OF HIGHWAY SAFETY PLANS.—

"(A) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a State's highway safety plan, the Secretary shall approve or disapprove the plan.

"(B) APPROVALS AND DISAPPROVALS.—The Secretary shall approve or disapprove a State's highway safety plan based on a review of the plan, including an evaluation of whether, in the Secretary's judgment, the plan is evidence-based, is supported by data and analysis, and, if implemented, will allow the State to meet the performance targets established for the State under subsection (m). The Secretary shall disapprove a State's highway safety plan if the plan does not, in the Secretary's judgment, provide for the evidenced-based use of funding in a manner sufficient to allow the State to meet performance targets.

"(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall inform the Governor of the State of the reasons for the disapproval and require the Governor to resubmit the plan with such modifications as the Secretary determines necessary.

"(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a Governor to resubmit a highway safety plan with modifications, the Secretary shall approve or disapprove the modified plan not later than 30 days after the date on which the modified plan is submitted to the Secretary.

"(E) FUNDING ALLOCATIONS.—If a State failed to accomplish, as determined by the Secretary, a performance target established for that State under subsection (m) in the fiscal year preceding the fiscal year to which a State highway safety plan under review applies, the Secretary shall require the following to be included in the highway safety plan under review:

"(i) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(iii) or (m)(1)(B)(iv), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing impaired driving in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

"(ii) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(v), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing occupant protection in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

"(iii) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(vi), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing motorcycle safety in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

"(F) DATA.—

"(i) FATALITIES DATA.—A State's compliance with performance targets relating to fatalities shall be determined using the most recent data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration.

"(ii) CRASH DATA.—A State's compliance with performance targets relating to serious injuries shall be determined using State crash data files.

"(G) PUBLIC NOTICE.—A State shall make each highway safety plan of the State available to the public.

"(o) ANNUAL REPORT TO CONGRESS.—Not later than October 1, 2015, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

"(1) an evaluation of each State's performance with respect to the State's highway safety plan under subsection (n) and performance targets under subsection (m); and

"(2) such recommendations as the Secretary may have for improvements to activities carried out under subsections (m) and (n).

"(p) DEFINITIONS.—In this section, the following definitions apply:

"(1) CHILD RESTRAINT.—The term 'child restraint' means any product designed to provide restraint to a child in a motor vehicle (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

"(2) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(3) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' have the meaning given those terms in section 164.

"(4) GRADUATED DRIVERS LICENSING LAW.—The term 'graduated drivers licensing law' means a law enacted by a State that requires, before the granting of an unrestricted driver's license to individuals under the age of 21 years, a 2-stage licensing process that includes the following:

"(A) A learner's permit stage that—

"(i) allows for the acquisition of a learner's permit by an individual not earlier than the date on which that individual attains 15 years and 6 months of age;

"(ii) is at least 6 months in duration;

"(iii) requires an individual with a learner's permit to complete at least 30 hours of driving supervised by a licensed driver who is 21 years of age or older;

"(iv) requires an individual with a learner's permit to be accompanied and supervised by a licensed driver who is 21 years of age or older at all times when operating a motor vehicle; and

"(v) is in effect until the commencement of the intermediate stage or until the date on which the applicable individual attains 18 years of age.

"(B) An intermediate stage that—

"(i) applies to an individual immediately after the expiration of the learner's permit stage for that individual;

"(ii) is at least 6 months in duration;

"(iii) prohibits the operation of a motor vehicle by an individual to whom the stage applies, if that individual is transporting more than

one nonfamilial passenger under the age of 18 years and there is no licensed driver 21 years of age or older present in the motor vehicle; and

"(iv) prohibits an individual to whom the stage applies from operating a motor vehicle between the hours of midnight and 4 a.m., unless such individual is accompanied and supervised by a licensed driver who is 21 years of age or older.

"(5) IMPAIRED DRIVING HIGH RANGE STATE.—The term 'impaired driving high range State' means a State that averaged more than .50 alcohol impaired driving fatalities per 100,000,000 vehicle miles traveled, as determined using data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration, for the most recent 3 years for which data are available.

"(6) IGNITION INTERLOCK DEVICE.—The term 'ignition interlock device' means an in-vehicle device that requires a driver to provide a breath sample prior to a motor vehicle starting and that prevents a motor vehicle from starting if the blood alcohol content of the driver is above the legal limit.

"(7) IGNITION INTERLOCK LAW.—The term 'ignition interlock law' means a law enacted by a State that requires throughout the State the installation of an ignition interlock device, for a minimum of 6 months, on each motor vehicle operated by an individual who is convicted of driving while intoxicated or driving under the influence.

"(8) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given that term in section 157.

"(9) MOTORCYCLIST SAFETY TRAINING.—The term 'motorcyclist safety training' means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include a State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

"(10) PRIMARY SAFETY BELT USE LAW.—The term 'primary safety belt use law' means a law enacted by a State that—

"(A) requires all occupants in the front seat of a motor vehicle to utilize a seat belt when the motor vehicle is being driven; and

"(B) allows for a law enforcement officer to stop a vehicle solely for the purpose of issuing a citation for a violation of the requirement in subparagraph (A) in the absence of evidence of another offense.

"(11) PROJECTS AND ACTIVITIES ADDRESSING IMPAIRED DRIVING.—The term 'projects and activities addressing impaired driving' means projects and activities—

"(A) to develop and implement law enforcement measures and tools designed to reduce impaired driving, including training, education, equipment, and other methods of support for law enforcement and criminal justice professionals;

"(B) to improve impaired driving prosecution and adjudication, including the establishment of courts that specialize in impaired driving cases;

"(C) to carry out safety campaigns relating to impaired driving using paid media;

"(D) to provide inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment;

"(E) to establish and improve information systems containing data on impaired driving; or

"(F) to establish and implement an ignition interlock system for individuals convicted of driving while intoxicated or driving under the influence.

"(12) PROJECTS AND ACTIVITIES ADDRESSING MOTORCYCLE SAFETY.—The term 'projects and activities addressing motorcycle safety' means projects and activities—

"(A) to improve the content and delivery of motorcyclist safety training curricula;

"(B) to support licensing, training, and safety education for motorcyclists, including new entrants;

"(C) to enhance motorcycle safety through public service announcements, including safety messages on road sharing, outreach, and public awareness activities; or

"(D) to provide for the safety of motorcyclists through the promotion of appropriate protective equipment.

"(13) PROJECTS AND ACTIVITIES ADDRESSING OCCUPANT PROTECTION.—The term 'projects and activities addressing occupant protection' means projects and activities—

"(A) to provide for occupant protection training, education, equipment, and other methods of support for law enforcement and criminal justice professionals;

"(B) to carry out safety campaigns relating to occupant protection using paid media;

"(C) to establish and improve information systems containing data on occupant protection;

"(D) to provide for training of firefighters, law enforcement officers, emergency medical services professionals, and others on the provision of community child passenger safety services; or

"(E) to purchase child restraints for low-income families.

"(14) PUBLIC ROAD.—The term 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel.

"(15) PUBLIC ROAD MILEAGE.—The term 'public road mileage' means the number of public road miles in a State as—

"(A) determined at the end of the calendar year preceding the year in which applicable funds are apportioned; and

"(B) certified by the Governor of the State, subject to approval by the Secretary.

"(16) SEAT BELT.—The term 'seat belt' has the meaning given that term in section 157.".

SEC. 5004. USE OF CERTAIN FUNDS MADE AVAILABLE FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 403 is amended to read as follows:

"§ 403. Use of certain funds made available for administrative expenses

"(a) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—The Secretary is authorized to carry out, using funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012—

"(1) ongoing research into driver behavior and its effect on traffic safety;

"(2) research on, initiatives to counter, and demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors determined relevant by the Secretary have on driving;

"(3) training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

"(4) research on and evaluations of the effectiveness of traffic safety countermeasures, including seat belts and impaired driving initiatives;

"(5) research on, evaluations of, and identification of best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration, and delivery mechanisms) and make recommendations for harmonizing driver education and multistage graduated licensing systems;

"(6) research, training, and education programs related to older drivers;

"(7) highway safety demonstration projects related to driver behavior, including field operational tests for vehicle collision avoidance systems, vehicle voice interface systems, vehicle workload management systems, driver state monitoring systems, and autonomous vehicles; and

"(8) research, training, and programs relating to motorcycle safety, including impaired driving.

"(b) HIGH VISIBILITY ENFORCEMENT PROGRAM.—

"(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer, using funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012, a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purpose specified in paragraph (2) in each of fiscal years 2013 through 2016.

"(2) PURPOSE.—The purpose of each law enforcement campaign under this subsection shall be to achieve one or more of the following objectives:

"(A) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

"(B) Increase the use of seat belts by occupants of motor vehicles.

"(C) Reduce distracted driving of motor vehicles.

"(3) ADVERTISING.—The Administrator may use, or authorize the use of, funds made available to carry out this subsection to pay for the development, production, and use of broadcast and print media advertising in carrying out law enforcement campaigns under this subsection. Consideration shall be given to ad-

vertising directed at non-English speaking populations, including those who listen to, read, or watch nontraditional media.

"(4) COORDINATION WITH STATES.—The Administrator shall coordinate with States in carrying out law enforcement campaigns under this subsection, including advertising funded under paragraph (3), with a view toward—

"(A) relying on States to provide the law enforcement resources for the campaigns out of funding available under this subsection and section 402; and

"(B) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

"(5) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of campaigns carried out under this subsection.

"(6) STATE DEFINED.—In this subsection, the term 'State' has the meaning given that term in section 401.

"(c) AVAILABILITY OF FUNDS.—The Secretary shall ensure that at least $137,244,000 of the funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012 each fiscal year are used for programs and activities authorized under this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 is amended by striking the item relating to section 403 and inserting the following:

"403. Use of certain funds made available for administrative expenses.".

SEC. 5005. REPEAL OF PROGRAMS.

(a) GENERAL PROVISION.—A repeal made by this section shall not affect funds apportioned or allocated before the effective date of the repeal.

(b) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 405, and the item relating to that section in the analysis for chapter 4, are repealed.

(c) SAFETY BELT PERFORMANCE GRANTS.—Section 406, and the item relating to that section in the analysis for chapter 4, are repealed.

(d) INNOVATIVE PROJECT GRANTS.—Section 407, and the item relating to that section in the analysis for chapter 4, are repealed.

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 408, and the item relating to that section in the analysis for chapter 4, are repealed.

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—Section 410, and the item relating to that section in the analysis for chapter 4, are repealed.

(g) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—Section 411, and the item relating to that section in the analysis for chapter 4, are repealed.

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Section 2009 of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1535), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(i) MOTORCYCLIST SAFETY.—Section 2010 of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1535), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(j) CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.—Section 2011 of SAFETEA–LU (23 U.S.C. 405 note; 119 Stat. 1538), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(k) DRUG-IMPAIRED DRIVING ENFORCEMENT.—Section 2013 of SAFETEA–LU (23 U.S.C. 403 note; 119 Stat. 1539), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(l) FIRST RESPONDER VEHICLE SAFETY PROGRAM.—Section 2014 of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1540), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(m) RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM.—Section 2016 of SAFETEA–LU (119 Stat. 1541), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(n) OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.—Section 2017 of SAFETEA–LU (119 Stat. 1541), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

SEC. 5006. DISCOVERY AND ADMISSION AS EVIDENCE OF CERTAIN REPORTS AND SURVEYS.

Section 409 is amended by striking "and 148" and inserting "148, and 402".

SEC. 5007. PROHIBITION ON FUNDS TO CHECK HELMET USAGE OR CREATE CHECKPOINTS FOR A MOTORCYCLE DRIVER OR PASSENGER.

The Secretary may not provide a grant or otherwise make available funding to a State, Indian tribe, county, municipality, or other local government to be used for

any program to check helmet usage or create checkpoints for a motorcycle driver or passenger.

SEC. 5008. NATIONAL DRIVER REGISTER.

(a) ACCURACY OF INFORMATION.—Not later than October 1, 2013, to ensure the accuracy of information contained in the National Driver Register established under section 30302 of title 49, United States Code, the Secretary, in cooperation with the States, shall—

(1) establish and implement procedures to—

(A) ensure that participating States submit reports required under section 30304(a) of such title with respect to a conviction not later than 31 days after receiving notice of the conviction, as required under section 30304(c)(2) of such title; and

(B) verify and improve the accuracy of reports submitted for inclusion in the Register under section 30304 of such title; and

(2) establish and implement a process for—

(A) the removal or modification of an invalid or duplicative driver record contained in the Register; and

(B) the verification of a request for the removal or modification of an invalid or duplicative driver record contained in the Register.

(b) REPORT TO CONGRESS.—Not later than February 1, 2013, and every February 1 thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing—

(1) the timeliness and completeness of State submissions under section 30304 of title 49, United States Code;

(2) the Department's efforts to monitor and ensure compliance with the reporting requirements under such section; and

(3) recommendations for improving the National Driver Register established under section 30302 of title 49, United States Code, including the accuracy of information contained in the Register, and the Problem Driver Pointer System of the American Association of Motor Vehicle Administrators.

TITLE VI—COMMERCIAL MOTOR VEHICLE SAFETY

SEC. 6001. SHORT TITLE.

This title may be cited as the "Motor Carrier Safety, Efficiency, and Accountability Act of 2012".

SEC. 6002. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

Subtitle A—Authorization of Appropriations

SEC. 6101. MOTOR CARRIER SAFETY GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 31104(a) is amended to read as follows:

"(a) IN GENERAL.—Subject to subsection (f), there is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) to carry out section 31102 $247,000,000 for each of fiscal years 2013 through 2016.".

(b) ADMINISTRATIVE TAKEDOWN.—

(1) IN GENERAL.—Section 31104(e) is amended to read as follows:

"(e) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—On October 1 of each fiscal year (or as soon after that date as practicable), the Secretary may deduct, from amounts made available under subsection (a) for that fiscal year, not more than 1.25 percent of those amounts for administrative expenses incurred in carrying out section 31102 in that fiscal year.

"(2) TRAINING.—The Secretary shall use at least 75 percent of the amounts deducted under paragraph (1) to train non-Government employees and to develop related training materials in carrying out section 31102.".

(2) REPORT TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report detailing the use of amounts deducted under section 31104(e) of title 49, United States Code, as amended by paragraph (1) of this subsection.

(c) ALLOCATION CRITERIA.—Section 31104(f) is amended to read as follows:

"(f) ALLOCATION CRITERIA.—

"(1) IN GENERAL.—On October 1 of each fiscal year (or as soon after that date as practicable) and after making the deduction under subsection (e), the Secretary shall allocate amounts made available to carry out section 31102 for such fiscal year among the States that are eligible for grant funds under section 31102(f)(2).

"(2) ALLOCATION FORMULA.—The amounts made available to carry out section 31102 shall be allocated among the States in the following manner:

"(A) 20 percent in the ratio that—

"(i) the total public road mileage in each State; bears to

"(ii) the total public road mileage in all States.

"(B) 20 percent in the ratio that—

"(i) the total vehicle miles traveled in each State; bears to

"(ii) the total vehicle miles traveled in all States.

"(C) 20 percent in the ratio that—

"(i) the total population of each State (as shown in the annual census estimates issued by the Bureau of the Census); bears to

"(ii) the total population of all States (as shown in the annual census estimates issued by the Bureau of the Census).

"(D) 20 percent in the ratio that—

"(i) the total special fuel consumption (net after reciprocity adjustment) in each State (as determined by the Secretary); bears to

"(ii) the total special fuel consumption (net after reciprocity adjustment) in all States (as determined by the Secretary).

"(E) 10 percent only to those States that share a land border with another country and conduct border commercial motor vehicle safety programs and related activities (in this subparagraph referred to as a 'border State'), with—

"(i) 70 percent of such amount to be allocated among border States in the ratio that—

"(I) the total number of international commercial motor vehicle inspections conducted within the boundaries of each border State (as determined by the Secretary); bears to

"(II) the total number of international commercial motor vehicle inspections conducted within the boundaries of all border States (as determined by the Secretary); and

"(ii) 30 percent of such amount to be allocated among border States in the ratio that—

"(I) the total number of land border crossing locations with State-maintained commercial motor vehicle safety enforcement infrastructure within the boundaries of each border State (as determined by the Secretary); bears to

"(II) the total number of land border crossing locations with State-maintained commercial motor vehicle safety enforcement infrastructure within the boundaries of all border States (as determined by the Secretary).

"(F) 10 percent only to those States that reduce the rate of large truck-involved fatal accidents in the State for the most recent calendar year for which data are available when compared to the average rate of large truck-involved fatal accidents in the State for the 10-year period ending on the last day preceding that calendar year (in this subparagraph referred to as an 'eligible State'), with—

"(i) 25 percent of such amount to be allocated among eligible States in the ratio that—

"(I) the total public road mileage in each eligible State; bears to

"(II) the total public road mileage in all eligible States;

"(ii) 25 percent of such amount to be allocated among eligible States in the ratio that—

"(I) the total vehicle miles traveled in each eligible State; bears to

"(II) the total vehicle miles traveled in all eligible States;

"(iii) 25 percent of such amount to be allocated among eligible States in the ratio that—

"(I) the total population of each eligible State (as shown in the annual census estimates issued by the Bureau of the Census); bears to

"(II) the total population of all eligible States (as shown in the annual census estimates issued by the Bureau of the Census); and

"(iv) 25 percent of such amount to be allocated among eligible States in the ratio that—

"(I) the total special fuel consumption (net after reciprocity adjustment) in each eligible State (as determined by the Secretary); bears to

"(II) the total special fuel consumption (net after reciprocity adjustment) in all eligible States (as determined by the Secretary).

"(3) MAXIMUM AND MINIMUM ALLOCATIONS.—

"(A) MAXIMUM ALLOCATION.—The allocation under subparagraphs (A) through (D) of paragraph (2) for a fiscal year to each State (excluding the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands) shall be not greater than 4.944 percent of the total allocation under those subparagraphs in that fiscal year.

"(B) MINIMUM ALLOCATION.—The allocation under paragraph (2) for a fiscal year to each State (excluding the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands) shall be not less than 0.44 percent of the total allocation under that paragraph in that fiscal year.

"(C) ALLOCATION TO TERRITORIES.—The annual allocation to each of the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall be $350,000.".

(d) ADMINISTRATIVE EXPENSES.—Section 31104(i) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration $244,144,000 for each of fiscal years 2013 through 2016."; and

(2) by adding at the end the following:

"(3) OUTREACH AND EDUCATION.—

"(A) IN GENERAL.—Using the funds authorized by this subsection, the Secretary shall conduct an outreach and education program to be administered by the Administrator of the Federal Motor Carrier Safety Administration in cooperation with the Administrator of the National Highway Traffic Safety Administration.

"(B) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

"(i) A program to promote a more comprehensive and national effort to educate commercial motor vehicle operators and passenger vehicle drivers about how such operators and drivers can more safely share the road with each other.

"(ii) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or contribute to crashes involving commercial motor vehicles and passenger vehicles.

"(iii) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in clauses (i) and (ii) to each partner's constituents and to the general public through the use of brochures, videos, paid and public advertisements, the Internet, and other media.".

SEC. 6102. GRANT PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) the following sums for the following Federal Motor Carrier Safety Administration programs:

(1) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION GRANTS.—For commercial driver's license program implementation grants under section 31313 of title 49, United States Code, $30,000,000 for each of fiscal years 2013 through 2016.

(2) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—For carrying out the commercial vehicle information systems and networks deployment program under section 4126 of SAFETEA–LU (119 Stat. 1738) $30,000,000 for each of fiscal years 2013 through 2016.

(b) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

(c) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) by this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under this section imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

Subtitle B—Registration

SEC. 6201. REGISTRATION REQUIREMENTS.

(a) GENERAL REQUIREMENTS.—Section 13901 is amended to read as follows:

"§ 13901. Requirement for registration

"(a) IN GENERAL.—A person may provide the following transportation or services only if the person is registered under this chapter to provide the transportation or service:

"(1) Transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135.

"(2) Service as a freight forwarder subject to jurisdiction under subchapter III of chapter 135.

"(3) Service as a broker for transportation subject to jurisdiction under subchapter I of chapter 135.

"(b) REGISTRATION NUMBERS.—

"(1) IN GENERAL.—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for the transportation or service. In the case of a person registered by the Secretary to provide more than one type of transportation or service, the Secretary shall issue a separate registration number to the person for each authority to provide transportation or service.

"(2) TRANSPORTATION OR SERVICE TYPE INDICATOR.—A registration number issued under paragraph (1) shall include an indicator of the type of transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

"(c) SPECIFICATION OF AUTHORITY.—For each agreement to provide transportation or service for which registration is required under this chapter, the registrant shall specify, in writing, the authority under which the person is providing the transportation or service.".

(b) AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—Chapter 139 is amended by adding at the end the following:

"§ 13909. Availability of information

"The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including—

"(1) the names and addresses of the principals of each entity holding such registration;

"(2) the status of such registration; and

"(3) the electronic address of the entity's surety provider for the submission of claims.".

(2) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"13909. Availability of information.".

SEC. 6202. MOTOR CARRIER REGISTRATION.

(a) MOTOR CARRIER GENERALLY.—Section 13902(a) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier using self-propelled vehicles the motor carrier owns, rents, or leases if the Secretary finds that the person—

"(A) is willing and able to comply with—

"(i) this part and the applicable regulations of the Secretary and the Board;

"(ii) any safety regulations imposed by the Secretary;

"(iii) the duties of employers and employees established by the Secretary under section 31135;

"(iv) the safety fitness requirements established by the Secretary under section 31144;

"(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or a successor regulation, for transportation provided by an over-the-road bus; and

"(vi) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138;

"(B) has demonstrated, through successful completion of a proficiency examination, to be developed by the Secretary by regulation, knowledge of the requirements and regulations described in subparagraph (A);

"(C) has disclosed to the Secretary any relationship involving common stock, common ownership, common control, common management, or common familial relationship between that person and any other motor carrier in the 3-year period preceding the date of the filing of the application for registration; and

"(D) has been issued a Department of Transportation number under section 31134."; and

(2) by adding at the end the following:

"(6) SEPARATE REGISTRATION REQUIRED.—A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.".

(b) ENHANCED REGISTRATION PROCEDURES FOR HOUSEHOLD GOODS MOTOR CARRIERS.—

(1) IN GENERAL.—Section 13902(a)(2) is amended to read as follows:

"(2) REGISTRATION FOR HOUSEHOLD GOODS MOTOR CARRIERS.—

"(A) ADDITIONAL REQUIREMENTS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after the person—

"(i) provides evidence of participation in an arbitration program under section 14708 and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

"(ii) identifies the motor carrier's tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c);

"(iii) provides evidence that the person has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage;

"(iv) discloses any relationship involving common stock, common ownership, common control, common management, or common familial relationships between the person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration;

"(v) demonstrates that the person is willing and able to comply with the household goods consumer protection rules of the Secretary; and

"(vi) demonstrates, through successful completion of a proficiency examination, to be developed by the Secretary by regulation, knowledge of the requirements and regulations described in this subparagraph.

"(B) HOUSEHOLD GOODS AUDITS.—

"(i) IN GENERAL.—The Secretary shall require, by regulation, each registrant described in subparagraph (A) to undergo a household goods audit during the 180-day period beginning 1 year after the date of issuance of a provisional registration to the registrant.

"(ii) REGULATIONS.—

"(I) DEADLINE.—The Secretary shall issue regulations under clause (i) not later than 2 years after the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

"(II) ISSUANCE OF STANDARDS.—The regulations shall include standards for household goods audits.

"(iii) CONTENTS.—The Secretary shall ensure that the standards issued under clause (ii)(II) require evidence demonstrating that a registrant described in subparagraph (A)—

"(I) has consistently adhered to the household goods regulations of the Secretary;

"(II) has consistently adhered to the requirements of its tariff;

"(III) has not wrongfully withheld the household goods of a customer;

"(IV) has not had a pattern of substantiated customer service complaints filed against it; and

"(V) has complied with all relevant arbitration requirements.

"(C) CORRECTIVE ACTION PLAN.—

"(i) IN GENERAL.—If a registrant described in subparagraph (A) fails a household goods audit, the registrant may submit to the Secretary for approval a corrective action plan to address deficiencies identified in the audit. The registrant shall submit the plan during the 60-day period beginning on the date the registrant is notified of the results of the audit.

"(ii) DEADLINE FOR APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove a corrective action plan submitted under clause (i) not later than 60 days after the date of submission of the plan.

"(iii) ASSESSMENT OF IMPLEMENTATION OF CORRECTIVE ACTION PLAN.—If the Secretary approves a corrective action plan submitted by a registrant under clause (i), the Secretary shall determine, during the 1-year period beginning on the date of such approval, whether the registrant has carried out the plan satisfactorily.

"(D) PROVISIONAL REGISTRATION.—

"(i) IN GENERAL.—Any registration issued under subparagraph (A) shall be designated as a provisional registration until the audit required by subparagraph (B) is completed.

"(ii) REQUIREMENT FOR ISSUANCE OF PERMANENT REGISTRATION.—A provisional registration issued to a registrant under subparagraph (A) shall become permanent after the registrant—

"(I) passes the household goods audit required under subparagraph (B); or

"(II) implements to the satisfaction of the Secretary a corrective action plan under subparagraph (C).

"(iii) REVOCATION OF PROVISIONAL REGISTRATION.—If a registrant fails a household goods audit required under subparagraph (B) or does not implement to the satisfaction of the Secretary a corrective action plan under subparagraph (C), the Secretary shall revoke the provisional registration of the registrant.

"(E) REAPPLYING FOR REGISTRATION.—

"(i) IN GENERAL.—Nothing in this paragraph permanently prohibits a person from reapplying for registration to provide transportation of household goods as a household goods motor carrier.

"(ii) LIMITATION.—If the Secretary revokes the provisional registration of a person under this paragraph, the person shall be required to wait at least 1 year before reapplying for a registration to provide transportation of household goods as a household goods motor carrier.".

(2) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule establishing the proficiency examination referred to in section 13902(a)(2)(A)(vi) of title 49, United States Code, as amended by paragraph (1).

(c) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—Section 13902 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—A motor carrier registered under this chapter—

"(1) may only provide transportation of property with—

"(A) self-propelled motor vehicles owned or leased by the motor carrier; or

"(B) interchanges, as permitted under regulations issued by the Secretary and subject to requirements that the originating carrier physically transports the cargo at some point and retains liability for the cargo and payment of interchanged carriers; and

"(2) may not arrange such transportation unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as the case may be.".

SEC. 6203. REGISTRATION OF FREIGHT FORWARDERS AND BROKERS.

(a) REGISTRATION OF FREIGHT FORWARDERS.—Section 13903 is amended to read as follows:

"§ 13903. Registration of freight forwarders

"(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person—

"(1) is qualified by experience to act as a freight forwarder; and

"(2) is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary.

"(b) FINANCIAL SECURITY REQUIREMENTS.—A registration issued under subsection (a) shall remain in effect only as long as the freight forwarder is in compliance with section 13906(c).

"(c) EXPERIENCE OR TRAINING REQUIREMENT.—A freight forwarder shall employ, as an officer, an individual who—

"(1) has at least 3 years of relevant experience; or

"(2) provides the Secretary with satisfactory evidence of completion of relevant training.

"(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.".

(b) REGISTRATION OF BROKERS.—Section 13904 is amended to read as follows:

"§ 13904. Registration of brokers

"(a) IN GENERAL.—The Secretary shall register a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person—

"(1) is qualified by experience to act as a broker for transportation; and

"(2) is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

"(b) FINANCIAL SECURITY REQUIREMENTS.—A registration issued under subsection (a) shall remain in effect only as long as the broker for transportation is in compliance with section 13906(b).

"(c) EXPERIENCE OR TRAINING REQUIREMENT.—A broker shall employ, as an officer, an individual who—

"(1) has at least 3 years of relevant experience; or

"(2) provides the Secretary with satisfactory evidence of completion of relevant training.

"(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—

"(1) IN GENERAL.—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.

"(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier.

"(e) REGULATIONS TO PROTECT MOTOR CARRIERS AND SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of motor carriers and shippers by motor vehicle.

"(f) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance (or both) as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.".

SEC. 6204. EFFECTIVE PERIODS OF REGISTRATION.

Section 13905(c) is amended to read as follows:

"(c) EFFECTIVE PERIOD.—

"(1) IN GENERAL.—Except as provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.

"(2) REISSUANCE OF REGISTRATION.—Not later than 4 years after the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter. Such registration shall expire not later than 5 years after the date of such renewal and may be further renewed as provided under this chapter.

"(3) REQUIREMENT FOR INFORMATION UPDATE.—

"(A) IN GENERAL.—The Secretary shall require a motor carrier, freight forwarder, or broker to update its registration information under this chap-

ter within 30 days of any change in address, other contact information, officers, process agent, or other essential information as determined by the Secretary and published in the Federal Register.

"(B) MOTOR CARRIERS OF PASSENGERS.—In addition to the requirements of subparagraph (A), the Secretary shall require a motor carrier of passengers to update its registration information, including numbers of vehicles, annual mileage, and individuals responsible for compliance with Federal safety regulations quarterly for the first 2 years after being issued a registration under section 13902.".

SEC. 6205. REINCARNATED CARRIERS.

(a) DENIALS, SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by striking paragraph (1) and inserting the following:

"(1) APPLICATIONS.—On application of the registrant, the Secretary may deny, suspend, amend, or revoke a registration.

"(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

"(A) deny, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

"(i) this part;

"(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or a successor regulation, for transportation provided by an over-the-road bus; or

"(iii) a condition of its registration;

"(B) deny, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure to—

"(i) pay a civil penalty imposed under chapter 5, 51, 149, or 311 of this title; or

"(ii) arrange and abide by an acceptable payment plan for such civil penalty, within 90 days of the time specified by order of the Secretary for the payment of such penalty; and

"(C) deny, suspend, amend, or revoke any part of a registration of a motor carrier following a determination by the Secretary that the motor carrier failed to disclose in its application for registration a material fact relevant to its willingness and ability to comply with—

"(i) this part;

"(ii) an applicable regulation or order of the Secretary or the Board; or

"(iii) a condition of its registration.

"(3) LIMITATION.—Paragraph (2)(B) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11."; and

(3) in paragraph (4) (as redesignated by paragraph (1)) by striking "paragraph (1)(B)" and inserting "paragraph (2)(B)".

(b) PROCEDURE.—Section 13905(e) is amended by inserting "or if the Secretary determines that the registrant has failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C)" before the first comma.

(c) DUTIES OF EMPLOYERS AND EMPLOYEES.—Section 31135 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) AVOIDING COMPLIANCE.—

"(1) IN GENERAL.—Two or more employers shall not use common ownership, common management, common control, or common familial relationship to enable any or all such employers to avoid compliance, or mask or otherwise conceal noncompliance, or a history of noncompliance, with commercial motor vehicle safety regulations issued under this subchapter or an order of the Secretary issued under this subchapter or such regulations.

"(2) PENALTY.—If the Secretary determines that actions described in the preceding sentence have occurred, the Secretary shall—

"(A) deny, suspend, amend, or revoke all or part of any such employer's registration under sections 13905 and 31134; and

"(B) take into account such noncompliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).".

(d) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F) by striking "and" at the end;

(2) in subparagraph (G) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(H) determine whether a motor carrier is or has been related, through common stock, common ownership, common control, common management, or common familial relationship to any other motor carrier.".

SEC. 6206. FINANCIAL SECURITY OF BROKERS AND FREIGHT FORWARDERS.

(a) IN GENERAL.—Section 13906 is amended by striking subsections (b) and (c) and inserting the following:

"(b) BROKER FINANCIAL SECURITY REQUIREMENTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

"(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

"(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

"(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

"(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

"(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

"(i) subject to the review by the surety provider, the broker consents to the payment;

"(ii) in the case the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

"(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii) and the claim is reduced to a judgment against the broker.

"(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

"(i) respond to the claim on or before the 30th day following receipt of the notice; and

"(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

"(C) COSTS AND ATTORNEYS FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorneys fees.

"(3) MINIMUM FINANCIAL SECURITY.—A broker subject to the requirements of this section shall provide financial security of $100,000, regardless of the number of branch offices or sales agents of the broker.

"(4) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

"(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

"(B) the Secretary shall immediately post such notification on the public Internet Web site of the Department of Transportation.

"(5) SUSPENSION.—The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of the broker falls below the amount required under this subsection.

"(6) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a broker registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall—

"(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);

"(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

"(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

"(i) all uncontested claims received during such period; or

"(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

"(7) PENALTIES.—

"(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

"(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

"(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide the financial security of a broker for 5 years.

"(8) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

"(9) FINANCIAL SECURITY AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amounts of the financial security required under this subsection to determine whether the amounts are sufficient to provide adequate financial security, and shall be authorized to increase the amounts, if necessary, based upon that determination.

"(c) FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

"(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

"(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

"(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

"(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

"(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

"(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

"(ii) in the case the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

"(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii) and the claim is reduced to a judgment against the freight forwarder.

"(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

"(i) respond to the claim on or before the 30th day following receipt of the notice; and

"(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

"(C) COSTS AND ATTORNEYS FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorneys fees.

"(3) FREIGHT FORWARDER INSURANCE.—

"(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards to be prescribed by the Secretary.

"(B) LIABILITY INSURANCE.—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against the freight forwarder for—

"(i) bodily injury to, or death of, an individual, or

"(ii) loss of, or damage to, property (other than property referred to in subparagraph (C)),

resulting from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder when providing transfer, collection, or delivery service under this part.

"(C) CARGO INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary that will pay an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

"(4) MINIMUM FINANCIAL SECURITY.—Each freight forwarder subject to the requirements of this section shall provide financial security of $100,000, regardless of the number of branch offices or sales agents of the freight forwarder.

"(5) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

"(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

"(B) the Secretary shall immediately post such notification on the public Internet Web site of the Department of Transportation.

"(6) SUSPENSION.—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter if the available financial security of the freight forwarder falls below the amount required under this subsection.

"(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall—

"(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

"(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

"(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

"(i) all uncontested claims received during such period; or

"(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

"(8) PENALTIES.—

"(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or

order issued under this subsection. The court may award appropriate relief, including injunctive relief.

"(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

"(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide the financial security of a freight forwarder for 5 years.

"(9) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

"(10) FINANCIAL SECURITY AND INSURANCE AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amounts of the financial security and insurance required under this subsection to determine whether the amounts are sufficient to provide adequate financial security, and shall be authorized to increase the amounts, if necessary, based upon that determination.".

(b) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to implement and enforce the requirements of subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

(d) REVIEW OF SECURITY REQUIREMENTS.—Not later than 15 months after the date of enactment of this Act, the Inspector General of the Department of Transportation shall—

(1) review the regulations and enforcement practices of the Secretary under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by this Act; and

(2) make any recommendations to the Secretary that may be necessary to improve the enforcement of such regulations.

SEC. 6207. REGISTRATION FEE SYSTEM.

Section 13908(d)(1) is amended by striking "but shall not exceed $300".

SEC. 6208. UNLAWFUL BROKERAGE ACTIVITIES.

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

"§ 14916. Unlawful brokerage activities

"(a) PROHIBITED ACTIVITIES.—A person may provide interstate brokerage services as a broker only if the person—

"(1) is registered under, and in compliance with, section 13904; and

"(2) has satisfied the financial security requirements under section 13906.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) a non-vessel-operating common carrier (as defined in section 40102 of title 46);

"(2) an ocean freight forwarder (as defined in section 40102 of title 46);

"(3) a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations; or

"(4) an indirect air carrier holding a Standard Security Program approved by the Transportation Security Administration,

when arranging for inland transportation as part of an international through movement involving ocean transportation between the United States and a foreign port.

"(c) CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable—

"(1) to the United States Government for a civil penalty in an amount not to exceed $10,000 for each violation; and

"(2) to the injured party for all valid claims incurred without regard to amount.

"(d) LIABLE PARTIES.—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally—

"(1) to any corporate entity or partnership involved; and

"(2) to the individual officers, directors, and principals of such entities.".

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

"14916. Unlawful brokerage activities.".

SEC. 6209. REQUIREMENT FOR REGISTRATION AND USDOT NUMBER.

(a) IN GENERAL.—Subchapter III of chapter 311 is amended by inserting after section 31133 the following:

"§ 31134. Requirement for registration and Department of Transportation number

"(a) IN GENERAL.—An employer or an employee of the employer may operate a commercial motor vehicle in interstate commerce only if the Secretary of Transportation registers the employer under this section and issues the employer a Department of Transportation number.

"(b) REGISTRATION.—Upon application for registration and a Department of Transportation number under this section, the Secretary shall register the employer if the Secretary determines that—

"(1) the employer is willing and able to comply with the requirements of this subchapter and chapter 51 if applicable; and

"(2)(A) during the 3-year period before the date of the filing of the application, the employer was not related through common stock, common ownership, common control, common management, or common familial relationship to any other person subject to safety regulations under this subchapter who, during such 3-year period, was unwilling or unable to comply with the requirements of this subchapter or chapter 51 if applicable; or

"(B) the employer has disclosed to the Secretary any relationship involving common stock, common ownership, common control, common management, or common familial relationship between that person and any other motor carrier.

"(c) REVOCATION OR SUSPENSION.—The Secretary shall revoke or suspend the registration of an employer issued under subsection (b) if the Secretary determines that—

"(1) the authority of the employer to operate as a motor carrier, freight forwarder, or broker pursuant to chapter 139 is revoked or suspended under section 13905(d)(1) or 13905(f); or

"(2) the employer has willfully failed to comply with the requirements for registration set forth in subsection (b).

"(d) COMMERCIAL REGISTRATION.—An employer registered under this section may not provide transportation subject to jurisdiction under subchapter I of chapter 135 unless the employer is also registered under section 13902 to provide such transportation.

"(e) STATE AUTHORITY.—Nothing in this section shall be construed as affecting the authority of a State to issue a Department of Transportation number under State law to a person operating in intrastate commerce.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31133 the following:

"31134. Requirement for registration and Department of Transportation number.".

Subtitle C—Commercial Motor Vehicle Safety

SEC. 6301. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 31102 is amended to read as follows:

"§ 31102. Motor carrier safety assistance program

"(a) GENERAL AUTHORITY.—The Secretary of Transportation shall administer a motor carrier safety assistance program to assist States with—

"(1) the development or implementation of programs for improving motor carrier safety; and

"(2) the enforcement of Federal regulations, standards, and orders (and compatible State regulations, standards, and orders) on—

"(A) commercial motor vehicle safety; and

"(B) hazardous materials transportation safety.

"(b) STATE PLANS.—

"(1) PROCEDURES.—The Secretary shall prescribe procedures for a State to participate in the program, including procedures under which the State shall submit a plan, in writing, to the Secretary in which the State agrees—

"(A) to assume responsibility for improving motor carrier safety in the State; and

"(B) to adopt and enforce Federal regulations, standards, and orders (and compatible State regulations, standards, and orders) on—

"(i) commercial motor vehicle safety; and

"(ii) hazardous materials transportation safety.

"(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall—

"(A) provide for implementation of performance-based activities, including deployment of technology, to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;

"(B) provide for implementation of a border commercial motor vehicle safety program and related enforcement activities if the State shares a land border with another country;

"(C) designate a State motor vehicle safety agency (in this paragraph referred to as the 'designated State agency') responsible for administering the plan throughout the State;

"(D) provide satisfactory assurances that the designated State agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

"(E) provide satisfactory assurances that the State will devote adequate amounts to the administration of the plan and enforcement of the regulations, standards, and orders;

"(F) provide a right of entry and inspection to carry out the plan;

"(G) provide that all reports required under this section be submitted to the designated State agency and that the designated State agency will make the reports available to the Secretary on request;

"(H) provide that the designated State agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations the Secretary prescribes;

"(I) require registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State;

"(J) provide that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standard through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

"(K) ensure that activities described in subsection (f)(3)(B), if financed with grants under this section, will not diminish the effectiveness of the development and implementation of commercial motor vehicle safety programs described in subsection (a);

"(L) ensure that the designated State agency will coordinate the plan, data collection, and information systems with State highway safety programs under title 23;

"(M) ensure participation in appropriate Federal Motor Carrier Safety Administration information systems and other information systems by all appropriate jurisdictions receiving funding under this section;

"(N) provide satisfactory assurances that the State is willing and able to exchange information with other States in a timely manner;

"(O) provide satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

"(P) provide satisfactory assurances that the State will promote activities in support of national priorities, including—

"(i) activities aimed at removing impaired commercial motor vehicle drivers from the highways of the United States—

"(I) through adequate enforcement of regulations on the use of alcohol and controlled substances; and

"(II) by ensuring ready roadside access to alcohol detection and measuring equipment;

"(ii) activities aimed at providing an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances; and

"(iii) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities;

"(Q) provide satisfactory assurances that the State has established a program to ensure that—

"(i) accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary; and

"(ii) the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;

"(R) ensure that the State will cooperate in the enforcement of financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued thereunder;

"(S) ensure consistent, effective, and reasonable sanctions;

"(T) ensure that roadside inspections will be conducted at a location that is adequate to protect the safety of drivers and enforcement personnel;

"(U) provide satisfactory assurances that the State will include, in the training manual for the licensing examination to drive a noncommercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

"(V) provide satisfactory assurances that the State will enforce the registration requirements of sections 13902 and 31134 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier—

"(i) without a registration issued under such sections; or

"(ii) beyond the scope of such registration;

"(W) provide satisfactory assurances that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors; and

"(X) provide for implementation of activities to monitor the safety performance of motor carriers of passengers, including inspections of commercial motor vehicles designed or used to transport passengers; except that roadside inspections must be conducted at a station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop, except in the case of an imminent or obvious safety hazard.

"(3) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—A plan submitted by a State under this subsection shall provide that the total expenditure of amounts of the State and political subdivisions of the State (not including amounts of the United States) for commercial motor vehicle safety programs and for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (f) will be maintained at a level at least equal to the average level of that expenditure for the 3 most recent fiscal years ending before the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

"(B) CALCULATING STATE EXPENDITURES.—In calculating the average level of State expenditure, the Secretary—

"(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

"(ii) shall require the State to exclude Government amounts.

"(c) GUIDANCE AND STANDARDS.—

"(1) IN GENERAL.—Not later than October 1, 2013, the Secretary shall—

"(A) develop guidance on the effectiveness of specific enforcement and related activities in generating reductions in fatalities and crashes involving commercial motor vehicles; and

"(B) publish standards for data timeliness, accuracy, and completeness that will allow States to meet the objectives of this section and that are consistent with the standards issued under section 31106(a)(4).

"(2) OPTIMIZATION OF ALLOCATIONS.—The Secretary shall develop a tool for States to optimize allocations of motor carrier safety resources to carry out enforcement and related activities to meet the objectives of this section.

"(3) UPDATES OF GUIDANCE.—The Secretary shall update the guidance issued under paragraph (1)(A) periodically to reflect new information.

"(d) PERFORMANCE MEASURES.—

"(1) STATE TARGETS.—For fiscal year 2014, and each fiscal year thereafter, each State, in the plan submitted by that State under subsection (b), shall—

"(A) establish targets, in quantifiable metrics, for enforcement activities, data quality, and other benchmarks to reduce fatalities and crashes involving commercial motor vehicles;

"(B) select target activities in accordance with the Secretary's latest guidance to ensure States pursue activities likely to generate maximum fatality and crash reduction; and

"(C) meet the standards for data published by the Secretary under subsection (c)(1)(B).

"(2) ANNUAL UPDATES OF STATE PLANS.—A State shall—

"(A) update its plan under subsection (b) annually to establish targets for the following fiscal year; and

"(B) submit the updated plan to the Secretary.

"(3) REQUIREMENTS FOR TARGETS.—If a State receives an increase in grant funds under this section in a fiscal year as compared to the previous fiscal year, the targets established by the State under paragraph (1) for the fiscal year shall exceed the levels achieved by the State in the previous fiscal year.

"(4) STATE REPORTS.—

"(A) INFORMATION ON FATALITIES AND CRASHES INVOLVING COMMERCIAL MOTOR VEHICLES.—Under the motor carrier safety assistance program, a State shall report to the Secretary the number and rate of fatalities and crashes involving commercial motor vehicles occurring in the State in the previous fiscal year.

"(B) OTHER INFORMATION.—A State shall include in the report required under subparagraph (A) information on commercial motor vehicles registered in the State and involved in crashes in such fiscal year and any other information requested by the Secretary.

"(5) ASSESSMENTS.—As part of the annual plan approval process under subsection (e), the Secretary shall assess whether—

"(A) a State met its targets in the previous fiscal year; and

"(B) targeted activities are reducing fatalities and crashes involving commercial motor vehicles.

"(e) PLAN REVIEW.—

"(1) APPROVAL PROCESS.—Before distributing grant funds under subsection (f) in a fiscal year, the Secretary shall—

"(A) review each State plan submitted to the Secretary under subsection (b), as updated by the State under subsection (d); and

"(B)(i) approve the plan if the Secretary determines that the plan is adequate to promote the objectives of this section; or

"(ii) disapprove the plan.

"(2) RESUBMITTAL.—If the Secretary disapproves a plan under this subsection, the Secretary shall—

"(A) give the State a written explanation; and

"(B) allow the State to modify and resubmit the plan for approval.

"(3) CONTINUOUS EVALUATION OF PLANS.—

"(A) IN GENERAL.—On the basis of reports submitted by the motor vehicle safety agency of a State with a plan approved under this subsection and the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan.

"(B) WITHDRAWAL OF APPROVAL.—

"(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for comment, a State plan previously approved under this subsection is not being followed or has become inadequate to ensure enforcement of the regulations, standards, or orders, the Secretary shall withdraw approval of the plan and notify the State.

"(ii) EFFECTIVE DATE.—The plan shall not be effective beginning on the date the notice is received.

"(iii) JUDICIAL REVIEW.—A State adversely affected by a withdrawal under this subparagraph may seek judicial review under chapter 7 of title 5.

"(C) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—Notwithstanding a withdrawal of approval of a State plan under this paragraph, the State may retain jurisdiction in administrative or judicial proceedings begun before the date of the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

"(f) GRANTS TO STATES.—

"(1) IN GENERAL.—Subject to the availability of funds, the Secretary shall make grants to States for the development or implementation of programs under this section in accordance with paragraph (3).

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—A State shall be eligible for a grant under this subsection in a fiscal year in an amount equal to the State's allocated amount determined under section 31104(f) if the State has in effect a State plan under subsection (b) that has been approved by the Secretary under subsection (e) for that fiscal year.

"(B) WITHHOLDING OF FUNDS.—In the case of a State that does not meet the requirements of subparagraph (A) in a fiscal year, the Secretary may withhold grant funds from a State's allocated amount determined under section 31104(f) for that fiscal year as follows:

"(i) The Secretary may withhold up to 25 percent of such funds if the State had a plan approved under subsection (e) for the fiscal year pre-

ceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant.

"(ii) The Secretary may withhold up to 50 percent of such funds if the State had a plan approved under subsection (e) for the second fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant and the preceding fiscal year.

"(iii) The Secretary may withhold up to 75 percent of such funds if the State had a plan approved under subsection (e) for the third fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant and the 2 preceding fiscal years.

"(iv) The Secretary may withhold 100 percent of such funds if the State has not had a plan approved under subsection (e) for the fiscal year of the grant and the 3 preceding fiscal years.

"(C) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary shall make available to a State the grant funds withheld from the State for a fiscal year under subparagraph (B) if the Secretary approves the State's plan under subsection (e) on or before the last day of that fiscal year.

"(D) REALLOCATION OF WITHHELD FUNDS.—If the Secretary withholds grant funds from a State for a fiscal year under subparagraph (B), and the State does not have a plan approved under subsection (e) on or before the last day of that fiscal year, such funds shall be released to the Secretary for reallocation among the States under section 31104(f) in the following fiscal year.

"(3) USE OF GRANT FUNDS.—

"(A) IN GENERAL.—A State receiving a grant under this subsection shall use the grant funds for activities to further the State's plan under subsection (b).

"(B) USE OF GRANTS TO ENFORCE OTHER LAWS.—Subject to subparagraph (C), a State may use grant funds received under this subsection—

"(i) if carried out in conjunction with an appropriate inspection of a commercial motor vehicle to enforce Federal or State commercial motor vehicle safety regulations, for—

"(I) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(II) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and

"(ii) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.

"(C) LIMITATIONS.—

"(i) EFFECT ON COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS.—A State may use grant funds received under this subsection for an activity described in subparagraph (B) only if the activity will not diminish the effectiveness of commercial motor vehicle safety programs described in subsection (a).

"(ii) ENFORCEMENT ACTIVITIES RELATING TO NONCOMMERCIAL MOTOR VEHICLES.—A State may not use more than 5 percent of the total amount of grants received by the State under this subsection in a fiscal year for enforcement activities relating to noncommercial motor vehicles described in subparagraph (B)(ii) unless the Secretary determines a higher percentage will result in significant increases in commercial motor vehicle safety.

"(g) ANNUAL REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual report that—

"(1) analyzes commercial motor vehicle safety trends among the States and documents the most effective commercial motor vehicle safety programs implemented with grants under this section;

"(2) describes the effect of activities carried out with grants made under this section on commercial motor vehicle safety; and

"(3) documents the number and rate of fatalities and crashes involving commercial motor vehicles by State.".

(b) CONFORMING AMENDMENT.—Section 31103(a) is amended by striking "section 31102(b)(1)(E) of this title" and inserting "section 31102(b)(3)".

(c) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

"31102. Motor carrier safety assistance program.".

SEC. 6302. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.

(a) IN GENERAL.—Section 31109 is amended to read as follows:

"§ 31109. Performance and registration information systems management program

"(a) IN GENERAL.—The Secretary shall carry out a performance and registration information systems management program to link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems as part of the motor carrier information system established under section 31106.

"(b) DESIGN.—The program shall enable a State to—

"(1) determine the safety fitness of a motor carrier or registrant—

"(A) when licensing or registering the motor carrier or registrant; or

"(B) while the license or registration is in effect; and

"(2) deny, suspend, or revoke the commercial motor vehicle registration of a motor carrier or registrant to whom the Secretary has issued an operations out-of-service order.

"(c) PROGRAM PARTICIPATION.—Not later than September 30, 2015, the Secretary shall require a State to participate in the program by—

"(1) complying with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(a)(4);

"(2) having in effect a law providing the State with the authority to impose the sanctions described in paragraph (3)(A) on the basis of an out-of-service order issued by the Secretary; and

"(3) establishing and implementing a process, approved by the Secretary, to—

"(A) deny, suspend, or revoke the vehicle registration or seize the registration plates of a commercial motor vehicle registered to a motor carrier to whom the Secretary has issued an out-of-service order; and

"(B) reinstate the vehicle registration or return the registration plates of the commercial motor vehicle subject to sanctions under subparagraph (A) if the Secretary permits such carrier to resume operations after the date of issuance of such order.

"(d) FUNDING.—A State may use grant funds made available to the State under section 4126 of SAFETEA–LU (119 Stat. 1738) for each of fiscal years 2013 through 2016 to meet the requirements of this section for participation in the program under subsection (c).".

(b) CONFORMING AMENDMENTS.—Section 31106(b) is amended—

(1) by striking paragraphs (2) through (4);

(2) by striking "(b) PERFORMANCE AND REGISTRATION INFORMATION PROGRAM.—" and all that follows through "(1) INFORMATION CLEARINGHOUSE.—The Secretary" and inserting the following:

"(b) INFORMATION CLEARINGHOUSE.—The Secretary"; and

(3) by aligning the remaining text accordingly.

(c) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

"31109. Performance and registration information systems management program.".

SEC. 6303. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT GRANTS.

(a) IN GENERAL.—Section 4126(a) of SAFETEA–LU (119 Stat. 1738) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking "and Federal" and all that follows through the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) facilitate compliance with Federal and State commercial motor vehicle regulatory requirements; and

"(4) provide assistance for State participation in the performance and registration information systems management program under section 31109.".

(b) AMOUNT OF GRANTS.—

(1) CORE DEPLOYMENT GRANTS.—Section 4126(c) of such Act (119 Stat. 1738) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(2) EXPANDED DEPLOYMENT GRANTS.—Section 4126(d) of such Act (119 Stat. 1739) is amended—

(A) by striking paragraph (3); and

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

(c) ELIGIBILITY.—Section 4126(e) of such Act (119 Stat. 1739) is amended—

(1) in paragraph (2)(B)—

(A) by inserting "in interstate commerce" after "efficiency"; and

(B) by striking "and" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) shall be participating not later than September 30, 2015, in the performance and registration information systems management program under section 31109 of title 49, United States Code.".

(d) FEDERAL SHARE.—Section 4126(f) of such Act (119 Stat. 1739) is amended—

(1) by striking "The Federal" and inserting the following:

"(1) IN GENERAL.—The Federal"; and

(2) by adding at the end the following:

"(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.—Notwithstanding any other provision of this subsection, the Federal share of the cost of a project relating to participation in the performance and registration information systems management program under section 31109 of title 49, United States Code, shall be 100 percent for fiscal years 2013 through 2016.".

SEC. 6304. COMMERCIAL MOTOR VEHICLE SAFETY INSPECTION PROGRAMS.

(a) IN GENERAL.—Section 31142(b) is amended to read as follows:

"(b) INSPECTION OF VEHICLES AND RECORD RETENTION.—

"(1) REGULATIONS ON GOVERNMENT STANDARDS.—The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of such inspections.

"(2) CONTENTS OF STANDARDS.—The standards shall provide for—

"(A) annual or more frequent inspections of a commercial motor vehicle designed or used to transport property unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system; and

"(B) annual or more frequent inspections of a commercial motor vehicle designed or used to transport passengers.

"(3) TREATMENT OF REGULATIONS.—Regulations prescribed under this subsection shall be treated as regulations prescribed under section 31136.

"(4) SPECIAL RULES FOR INSPECTION PROGRAM.—Any inspection required under paragraph (2)(B) shall be conducted by, or under a program established by, the State in which the vehicle is registered. A roadside inspection conducted by a State or other jurisdiction shall not be considered an inspection for the purposes of meeting the requirements of paragraph (2)(B).".

(b) PERIODIC REVIEW OF STATE SAFETY INSPECTION PROGRAMS.—The Secretary shall periodically review State safety inspection programs of commercial motor vehicles designed or used to transport passengers.

SEC. 6305. AMENDMENTS TO SAFETY FITNESS DETERMINATION.

On and after the date the Secretary publishes in the Federal register the final rule revising the safety fitness determination methodology established pursuant to 31144 of title 49, United States Code, to correspond with the Compliance Safety Accountability program, the Secretary shall consider Safety Recommendation H–99–6 of the National Transportation Safety Board, issued February 26, 1999, closed.

SEC. 6306. NEW ENTRANT CARRIERS.

(a) SAFETY REVIEW.—Section 31144(g)(1) is amended to read as follows:

"(1) SAFETY REVIEW.—The Secretary shall require, by regulation, each owner and operator issued a new registration under section 13902 or 31134 to undergo a safety review under this section—

"(A) except as provided by subparagraphs (B) and (C), within the first 18 months after the date on which the owner or operator begins operations under such registration;

"(B) in the case of an owner or operator with authority to transport hazardous materials, within the first 9 months after the date on which the owner or operator begins operations under such registration; and

"(C) in the case of an owner or operator with authority to transport passengers, within the first 90 days after the date on which the owner or operator begins operations under such registration.".

(b) NEW ENTRANT REGISTRATION.—Section 31144(g)(4) is amended to read as follows:

"(4) NEW ENTRANT REGISTRATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, any new registration issued under section 13902 or 31134 shall each be designated as new entrant registration until the safety review required by paragraph (1) is completed.

"(B) REQUIREMENT FOR ISSUANCE OF PERMANENT OPERATING AUTHORITY.—A new registration issued to an owner or operator under section 13902 or 31134 shall become permanent after the owner or operator has passed the safety review required under paragraph (1).".

(c) FUNDING.—Section 31144(g)(5) is amended to read as follows:

"(5) FUNDING.—

"(A) IN GENERAL.—A State shall carry out the requirements of this section with funds allocated to the State under section 31104(f).

"(B) DETERMINATION.—If the Secretary determines that a State or local government is not able to use government employees to conduct new entrant motor carrier safety reviews with funds allocated to the State under section 31104(f), the Secretary may conduct for the State or local government the safety reviews that the State or local government is not able to conduct with such funds.".

(d) FEDERAL SHARE.—Section 31103(b) is amended to read as follows:

"(b) NEW ENTRANT MOTOR CARRIER SAFETY REVIEWS.—

"(1) INCREASE IN SHARE OF COSTS.—Subject to paragraph (2), the Secretary may reimburse a State an amount that is up to 100 percent of the costs incurred by the State in a fiscal year for new entrant motor carrier safety reviews conducted under section 31144(g).

"(2) LIMITATION.—The increased Federal share provided under paragraph (1) shall apply with respect to reimbursements of costs described in paragraph (1) made using not more than 20 percent of the funds allocated to a State under section 31104(f) for a fiscal year. Any such reimbursements made using an amount in excess of 20 percent of such funds shall be subject to the cost-sharing requirements of subsection (a).".

(e) CONFORMING AMENDMENT.—Section 31144(g) is amended, in the subsection heading, by striking "SAFETY REVIEWS OF NEW OPERATORS" and inserting "NEW ENTRANT MOTOR CARRIER SAFETY REVIEWS".

SEC. 6307. IMPROVED OVERSIGHT OF MOTOR CARRIERS OF PASSENGERS.

Section 31144 is amended by adding at the end the following:

"(h) SAFETY REVIEWS OF OWNERS AND OPERATORS OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHICLES DESIGNED OR USED TO TRANSPORT PASSENGERS.—

"(1) IN GENERAL.—Not later than September 30, 2015, the Secretary shall determine the safety fitness of each owner, and each operator, of a commercial motor vehicle designed or used to transport passengers who the Secretary registers, on or before September 30, 2014 (including before the date of enactment of this subsection), under section 13902 or 31134.

"(2) SAFETY FITNESS RATING.—As part of the safety fitness determination required by paragraph (1), the Secretary shall assign a safety fitness rating to each owner and each operator described in paragraph (1).

"(3) PERIODIC MONITORING.—

"(A) PROCESS.—The Secretary shall establish a process, by regulation, for monitoring on a regular basis the safety performance of an owner or operator of a commercial motor vehicle designed or used to transport passengers, following the assignment of a safety rating to such owner or operator.

"(B) ELEMENTS OF MONITORING AND SAFETY ENFORCEMENT.—Regulations issued under subparagraph (A) shall provide for the following:

"(i) Monitoring of the safety performance, in critical safety areas (as defined by the Secretary, by regulation) of an owner or operator of a commercial motor vehicle designed or used to transport passengers (including by activities conducted onsite at the offices of the owner or operator or offsite).

"(ii) Increasingly more stringent interventions designed to correct unsafe practices of an owner or operator of a commercial motor vehicle designed or used to transport passengers.

"(iii) Periodic updates to the safety fitness rating of an owner or operator if the Secretary determines that such update will improve the safety performance of the owner or operator.

"(iv) Enforcement action, including determining that the owner or operator is not fit and may not operate a commercial motor vehicle under subsection (c)(2).".

SEC. 6308. DRIVER MEDICAL QUALIFICATIONS.

(a) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

"(D) develop requirements applicable to a medical examiner in order for the medical examiner to be listed in the national registry established under this section, including—

"(i) specific courses and materials that must be completed;

"(ii) at a minimum, self-certification requirements to verify that the medical examiner has completed specific training, including refresher courses, that the Secretary determines are necessary; and

"(iii) an examination developed by the Secretary for which a passing grade must be achieved.".

(b) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) in subparagraph (E) by striking "and" at the end;

(B) in subparagraph (F) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(G) review each year the implementation of commercial driver's license requirements of a minimum of 10 States to assess the accuracy, validity, and timeliness of—

"(i) submission of physical examination reports and medical certificates to State licensing agencies; and

"(ii) the processing of such submissions by State licensing agencies.".

(2) INTERNAL OVERSIGHT POLICY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and process within the Department for the purposes of carrying out the requirement of section 31149(c)(1)(G) of title 49, United States Code, as added by paragraph (1) of this subsection.

(B) EFFECTIVE DATE.—Section 31149(c)(1)(G) of title 49, United States Code, as added by paragraph (1) of this subsection, shall take effect on the date that the oversight policy and process is established pursuant to subparagraph (A).

(c) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners as required by section 31149(d)(1) of title 49, United States Code.

SEC. 6309. COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS.

(a) SAFETY STANDARDS FOR COMMERCIAL MOTOR VEHICLES OF PROPERTY.—

(1) RESEARCH.—The Secretary shall conduct research on the need for roof strength, pillar strength, frontal and back wall strength, and other potential occupant protection standards for commercial motor vehicles of property.

(2) COMMERCIAL MOTOR VEHICLE OF PROPERTY DEFINED.—In this subsection, the term "commercial motor vehicle of property" means a motor vehicle used in commerce to transport property that has a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds, whichever is greater.

(b) SAFETY STANDARDS FOR MOTORCOACHES.—

(1) SAFETY STANDARDS FOR NEW MOTORCOACHES.—

(A) OCCUPANT PROTECTION SYSTEMS.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue standards for motorcoach occupant protection systems that account for frontal impact collisions, side impact collisions, rear impact collisions, and rollovers. Such standards shall not eliminate or lessen the occupant protection standards in effect on the date of enactment of this Act and shall—

(I) be based on sound scientific research, extensive testing, and analysis by the National Highway Traffic Safety Administration,

consistent with the recommendations of the National Transportation Safety Board regarding motorcoach occupant protection; and

(II) take into consideration the various types of motorcoaches and the various uses and configurations of the occupant compartment as well as local, State, and Federal size and weight limits and restrictions.

(ii) CONTENTS.—Such standards may include seatbelts or other occupant protection systems, passive or otherwise, for passengers, including those in child safety restraint systems.

(iii) CONSULTATION.—Prior to issuing such standards, the Secretary shall consult with affected parties, as appropriate, on the proceedings leading to the issuance of the standards required by this subparagraph. Any communications concerning such consultation shall be included in the public record of the proceedings leading to the issuance of such standards and shall be subject to public comment.

(B) ROOF STRENGTH.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing on roof strength to determine the method or methods that provide adequate survival space for all seating positions.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue roof strength standards for motorcoaches based on the results of such research and testing and taking into account all motorcoach window dimensions and highway size and weight restrictions.

(C) WINDOW GLAZING.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing on advanced window glazing and securement to determine the best method or methods for window glazing to prevent motorcoach occupant ejection.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall revise window glazing standards for motorcoaches based on the results of such research and testing and taking into account all motorcoach window dimensions and highway height and weight restrictions.

(D) FIRE PREVENTION AND MITIGATION.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing to determine the most prevalent causes of motorcoach fires and the best methods to prevent such fires and to mitigate the effect of such fires, both inside and outside the motorcoach.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue fire prevention and mitigation standards for motorcoaches, based on the results of the Secretary's research and testing, taking into account motorcoach highway size and weight restrictions.

(E) EMERGENCY EVACUATION DESIGN.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing to determine any necessary changes in motorcoach design standards, including windows and doors, to improve motorcoach emergency evacuation.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue motorcoach emergency evacuation design standards, including—

(I) window standards that enhance the use of windows for emergency evacuation to the maximum extent feasible, while not detracting from the window glazing standards to be issued under this paragraph; and

(II) door standards, including design of the wheelchair lift door for emergency evacuation use.

(iii) MOTORCOACH HIGHWAY SIZE AND WEIGHT RESTRICTIONS.—Such standards shall take into account motorcoach highway size and weight restrictions.

(F) GENERAL PROVISIONS.—

(i) EFFECT ON STATE AND LOCAL LAWS.—Notwithstanding any provision of chapter 301 of title 49, United States Code, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to a motorcoach crash avoidance and occupant protection system prior to the effective date of the regulations issued pursuant to this paragraph.

(ii) APPLICABILITY OF STANDARDS.—The standards issued under subparagraphs (A) through (E) shall require motorcoaches manufactured after the last day of 3-year period beginning on the date on which such standards are issued to be engineered and equipped to meet such standards.

(iii) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection or in the regulations issued pursuant to this subsection may be construed as indicating an intention by Congress to affect, change, or modify in any way the liability, if any, of a motorcoach manufacturer or motorcoach owner or operator under applicable law to buses or motorcoaches, manufactured and operated with or without passenger seat belts or other passenger restraint systems, prior to the effective date of the regulations issued under this subsection.

(2) SAFETY STANDARDS FOR EXISTING MOTORCOACHES.—

(A) IN GENERAL.—The Secretary may issue standards for motorcoaches that are manufactured before the date that is 3 years after the date on which the standards required under paragraph (1) are issued, taking into account the limitations posed by the need to retrofit existing motorcoaches. Such standards shall have the same objectives as the standards required under subparagraphs (A) through (E) of paragraph (1), but may differ from such standards based on what is technically feasible for existing motorcoaches. Such standards are technically feasible if the equipment can be certified by the original equipment manufacturer as meeting requisite performance requirements and if the equipment is readily attachable subsequent to initial manufacture by the operator and enforced through readily visible inspection requiring no disassembly.

(B) STANDARDS FOR COMPONENT PARTS AND EQUIPMENT.—In lieu of issuing comprehensive standards for motorcoaches under subparagraph (A), the Secretary may develop standards for various component parts and equipment of motorcoaches that would increase occupant protection.

(C) EFFECTIVE DATE.—The effective date for the standards issued under this subsection shall be the same as the effective date for the standards issued under paragraph (1).

(D) CERTIFICATION.—The Secretary shall establish, by regulation, a system whereby the motorcoaches to which the standards issued under subparagraph (A) apply shall be certified as in compliance with such standards. Such certification shall be carried out by the Secretary or by private parties at the discretion and authorization of the Secretary.

(3) COMPLIANCE TIMETABLES.—

(A) EFFECTIVE DATE.—The effective date of the standards issued under paragraphs (1) and (2) shall be 3 years after the date on which such final standards are issued. All motorcoaches manufactured after such date shall comply with such standards.

(B) PHASED IN REQUIREMENTS.—

(i) FIRST PHASE.—Not later than 6 years after the effective date of the standards issued under paragraphs (1) and (2), a motorcoach owner or operator shall ensure that at least 50 percent of the motorcoaches used by the owner or operator comply with either the standards issued under paragraph (1) or the standards issued under paragraph (2), as appropriate.

(ii) SECOND PHASE.—Not later than 12 years after the effective date of the standards issued under paragraphs (1) and (2), a motorcoach owner or operator shall ensure that 100 percent of the motorcoaches used by the owner or operator comply with either of such standards.

(C) STATE AND LOCAL LAWS.—

(i) LIABILITY OF MOTORCOACH MANUFACTURERS AND OWNERS AND OPERATORS.—Nothing in this subsection may be construed to affect, change, or modify in any way the liability, if any, of a motorcoach manufacturer or motorcoach owner or operator under applicable law to buses or motorcoaches unless the manufacturer or owner or operator is shown not to be in compliance with the timetables set forth in subparagraphs (A) and (B).

(ii) PREEMPTION.—Notwithstanding any provision of chapter 301 of title 49, United States Code, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to any of the standards required by paragraphs (1) and (2) during the time periods set forth in subparagraphs (A) and (B).

(4) DEFINITION OF MOTORCOACH.—In this subsection, the term "motorcoach" means an over-the-road bus, characterized by an elevated passenger deck located over a baggage compartment.

SEC. 6310. CRASH AVOIDANCE TECHNOLOGY.

(a) STUDY.—The Secretary shall study the effectiveness of crash avoidance technologies as countermeasures to lessen the impact of distracted driving in commercial motor vehicle crashes.

(b) REPORT TO CONGRESS.—Not later than October 1, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the study.

SEC. 6311. EXPANSION OF COLLISION MITIGATION STUDY.

(a) STUDY.—The Secretary shall expand the ongoing study of the Department on collision mitigation systems in commercial motor vehicles to include systems that can react to a stopped vehicle.

(b) REPORT TO CONGRESS.—Not later than October 1, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the study.

Subtitle D—Commercial Motor Vehicle Operators

SEC. 6401. NATIONAL CLEARINGHOUSE FOR RECORDS RELATING TO ALCOHOL AND CONTROLLED SUBSTANCES TESTING OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended by inserting after section 31306 the following:

"§ 31306a. National clearinghouse for records relating to alcohol and controlled substances testing

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall establish and maintain an information system that will serve as a national clearinghouse for records relating to the alcohol and controlled substances testing program applicable to operators of commercial motor vehicles under section 31306.

"(2) PURPOSES.—The purposes of the clearinghouse shall be—

"(A) to improve compliance with the requirements of the testing program; and

"(B) to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles.

"(3) CONTENTS.—The clearinghouse shall be a repository of records relating to violations of the testing program by individuals submitted to the Secretary in accordance with this section.

"(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure the ability for records to be submitted to the clearinghouse, and requested from the clearinghouse, on an electronic basis.

"(5) DEADLINE.—The Secretary shall establish the clearinghouse not later than 1 year after the date of enactment of this section.

"(b) EMPLOYMENT PROHIBITIONS.—

"(1) IN GENERAL.—An employer may permit an individual to operate a commercial motor vehicle or perform any other safety sensitive function only if the employer makes a request for information from the clearinghouse at such times as the Secretary shall specify, by regulation, and the information in the clearinghouse at the time of the request indicates that the individual—

"(A) has not violated the requirements of the testing program in the preceding 3-year period; or

"(B) if the individual has violated the requirements of the testing program during that period, is eligible to return to safety sensitive duties pursuant to the return-to-duty process established under the testing program.

"(2) VIOLATIONS.—For purposes of paragraph (1), an individual shall be considered to have violated the requirements of the testing program if the individual—

"(A) has a confirmed or verified, as applicable, positive alcohol or controlled substances test result under the testing program;

"(B) has failed or refused to submit to an alcohol or controlled substances test under the testing program; or

"(C) has otherwise failed to comply with the requirements of the testing program.

"(3) APPLICABILITY.—Paragraph (1) shall apply to an individual who performs a safety sensitive function for an employer as a full-time regularly employed driver, casual, intermittent, or occasional driver, or leased driver, or independent owner-operator contractor of such employer or, as determined by the Secretary, pursuant to another arrangement.

"(4) WRITTEN NOTICE THAT CLEARINGHOUSE IS OPERATIONAL.—The Secretary shall issue a written notice when the Secretary determines that the clearinghouse is operational and employers are able to use the clearinghouse to meet the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(5) EFFECTIVE DATE.—Paragraph (1) shall take effect on a date specified by the Secretary in the written notice issued under paragraph (4) that is not later than 30 days after the date of issuance of the written notice.

"(6) CONTINUED APPLICATION OF EXISTING REQUIREMENTS.—Following the date on which paragraph (1) takes effect, an employer shall continue to be subject to the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section, for a period of 3 years or for such longer period as the Secretary determines appropriate.

"(7) NOTICE OF REQUIREMENTS APPLICABLE TO EMPLOYERS.—The Secretary shall provide notice of the requirements applicable to employers under this section through published notices in the Federal Register.

"(c) REPORTING OF RECORDS.—

"(1) IN GENERAL.—The Secretary shall require employers and appropriate service agents, including medical review officers, to submit to the Secretary for inclusion in the clearinghouse records of violations of the testing program by individuals described in subsection (b)(3).

"(2) SPECIFIC REPORTING REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall require, at a minimum—

"(A) a medical review officer to report promptly, as determined by the Secretary, to the clearinghouse—

"(i) a verified positive controlled substances test result of an individual under the testing program; and

"(ii) a failure or refusal of an individual to submit to a controlled substances test in accordance with the requirements of the testing program; and

"(B) an employer (or, in the case of an operator of a commercial motor vehicle who is self-employed, the service agent administering the operator's testing program) to report promptly, as determined by the Secretary, to the clearinghouse—

"(i) a confirmed positive alcohol test result of an individual under the testing program; and

"(ii) a failure or refusal of an individual to provide a specimen for a controlled substances test in accordance with the requirements of the testing program.

"(3) UPDATING OF RECORDS.—The Secretary shall ensure that a record in the clearinghouse is updated to include a return-to-duty test result of an individual under the testing program.

"(4) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include all records of violations received pursuant to this subsection in the clearinghouse.

"(5) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record.

"(6) NOTIFICATION OF INDIVIDUALS.—The Secretary shall establish a process to provide notification to an individual of—

"(A) a submission of a record to the clearinghouse relating to the individual; and

"(B) any modification or deletion of a record in the clearinghouse pertaining to the individual, including the reason for the modification or deletion.

"(7) TIMELY AND ACCURATE REPORTING.—The Secretary may establish additional requirements, as appropriate, to ensure timely and accurate reporting of records to the clearinghouse.

"(8) DELETION OF RECORDS.—The Secretary shall delete a record of a violation submitted to the clearinghouse after a period of 3 years beginning on the date the individual is eligible to return to safety sensitive duties pursuant to the return-to-duty process established under the testing program.

"(d) ACCESS TO CLEARINGHOUSE BY EMPLOYERS.—

"(1) IN GENERAL.—The Secretary shall establish a process for an employer to request and receive records in the clearinghouse pertaining to an individual in accordance with subsection (b).

"(2) WRITTEN CONSENT OF INDIVIDUALS.—An employer shall obtain the written consent of an individual before requesting any records in the clearinghouse pertaining to the individual.

"(3) ACCESS TO RECORDS.—Upon receipt of a request for records from an employer under paragraph (1), the Secretary shall provide the employer with access to the records as expeditiously as practicable.

"(4) RECORDS OF REQUESTS.—The Secretary shall require an employer to maintain for a 3-year period—

"(A) a record of each request made by the employer for records from the clearinghouse; and

"(B) any information received pursuant to the request.

"(5) USE OF RECORDS.—

"(A) IN GENERAL.—An employer—

"(i) may obtain from the clearinghouse a record pertaining to an individual only for the purpose of determining whether a prohibition applies with respect to the individual to operate a commercial motor vehicle or perform any other safety sensitive function under subsection (b)(1); and

"(ii) may use the record only for such purpose.

"(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives a record from the clearinghouse pertaining to an individual shall protect the privacy of the individual and the confidentiality of the record, including taking reasonable precautions to ensure that information contained in the record is not divulged to any person who is not directly involved in determining whether a prohibition applies with respect to the individual to operate a commercial motor vehicle or perform any other safety sensitive function under subsection (b)(1).

"(e) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

"(A) to learn whether a record pertaining to the individual is contained in the clearinghouse;

"(B) to verify the accuracy of the record;

"(C) to verify updates to the individual's record, including completion of a return-to-duty process under the testing program; and

"(D) to learn of requests for information from the clearinghouse regarding the individual.

"(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in a record pertaining to the individual in the clearinghouse, except that the appeal process shall not be used to dispute or remedy the validity of a controlled substance or alcohol test result.

"(3) ACCESS TO RECORDS.—Upon receipt of a request for records from an individual under paragraph (1), the Secretary shall provide the individual with access to the records as expeditiously as practicable.

"(f) ACCESS TO CLEARINGHOUSE BY CHIEF COMMERCIAL DRIVER LICENSING OFFICIALS.—

"(1) IN GENERAL.—The Secretary shall establish a process for the chief commercial driver licensing official of a State to request and receive records pertaining to an individual from the clearinghouse.

"(2) USE OF INFORMATION.—The chief commercial driver licensing official of a State may not obtain from the clearinghouse a record pertaining to an individual for any purpose other than to take an action related to a commercial driver's license for the individual under applicable State law or to comply with section 31311(a)(22).

"(g) USE OF CLEARINGHOUSE INFORMATION FOR ENFORCEMENT PURPOSES.—The Secretary may use the records in the clearinghouse for the purposes of enforcement activities under this chapter.

"(h) DESIGN OF CLEARINGHOUSE.—

"(1) IN GENERAL.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

"(A) registration, authorization, and authentication of a user of the clearinghouse;

"(B) registration, authorization, and authentication of individuals required to report to the clearinghouse under subsection (c);

"(C) preventing information from the clearinghouse from being accessed by unauthorized users;

"(D) timely and accurate electronic submissions of data to the clearinghouse under subsection (c);

"(E) timely and accurate access to records from the clearinghouse under subsections (d), (e), and (f); and

"(F) updates to an individual's record related to compliance with the return-to-duty process under the testing program.

"(2) ARCHIVE CAPABILITY.—The clearinghouse shall be designed to allow for an archive of the receipt, modification, and deletion of records for the purposes of auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse.

"(3) SECURITY STANDARDS.—The clearinghouse shall be designed and administered in compliance with applicable Department of Transportation information technology security standards.

"(4) INTEROPERABILITY WITH OTHER SYSTEMS.—In establishing the clearinghouse and developing requirements for data to be included in the clearinghouse, the Secretary, to the maximum extent practicable, shall take into consideration—

"(A) existing information systems containing regulatory and safety data for motor vehicle operators;

"(B) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

"(C) the potential interoperability of the clearinghouse with existing and future information systems containing regulatory and safety data for motor vehicle operators.

"(i) PRIVACY.—

"(1) AVAILABILITY OF CLEARINGHOUSE INFORMATION.—The Secretary shall establish a process to make information available from the clearinghouse in a manner that is consistent with this section and applicable Federal information and privacy laws, including regulations.

"(2) UNAUTHORIZED INDIVIDUALS.—The Secretary may not provide information from the clearinghouse to an individual who is not authorized by this section to receive the information.

"(j) FEES.—

"(1) AUTHORITY TO COLLECT FEES.—

"(A) GENERAL AUTHORITY.—The Secretary may collect fees for requests for information from the clearinghouse.

"(B) AMOUNT TO BE COLLECTED.—Fees collected under this subsection in a fiscal year shall equal as nearly as possible the costs of operating the clearinghouse in that fiscal year, including personnel costs.

"(C) RECEIPTS TO BE CREDITED AS OFFSETTING COLLECTIONS.—The amount of any fee collected under this subsection shall be—

"(i) credited as offsetting collections to the account that finances the activities and services for which the fee is imposed; and

"(ii) available without further appropriation for such activities and services until expended.

"(2) LIMITATION.—The Secretary shall ensure that an individual requesting information from the clearinghouse in order to dispute or remedy an error in a record pertaining to the individual pursuant to subsection (e)(2) may obtain the information without being subject to a fee authorized by paragraph (1).

"(k) ENFORCEMENT.—An employer, and any person acting as a service agent, shall be subject to civil and criminal penalties for a violation of this section in accordance with section 521(b).

"(l) DEFINITIONS.—In this section, the following definitions apply:

"(1) CHIEF COMMERCIAL DRIVER LICENSING OFFICIAL.—The term 'chief commercial driver licensing official' means the official in a State who is authorized—

"(A) to maintain a record about a commercial driver's license issued by the State; and

"(B) to take action on a commercial driver's license issued by the State.

"(2) CLEARINGHOUSE.—The term 'clearinghouse' means the clearinghouse to be established under subsection (a).

"(3) EMPLOYER.—Notwithstanding section 31301, the term 'employer' means a person or entity employing 1 or more employees (including an individual who is self-employed) that is subject to Department of Transportation requirements under the testing program. The term does not include a service agent.

"(4) MEDICAL REVIEW OFFICER.—The term 'medical review officer' means a person who is a licensed physician and who is responsible for receiving and re-

viewing laboratory results generated under the testing program and evaluating medical explanations for certain controlled substances test results.

"(5) SAFETY SENSITIVE FUNCTION.—The term 'safety sensitive function' has the meaning such term has under part 382 of title 49, Code of Federal Regulations, or any successor regulation.

"(6) SERVICE AGENT.—The term 'service agent' means a person or entity, other than an employee of an employer, who provides services covered by part 40 of title 49, Code of Federal Regulations, or any successor regulation, to employers or employees (or both) under the testing program, and the term includes a medical review officer.

"(7) TESTING PROGRAM.—The term 'testing program' means the alcohol and controlled substances testing program established under section 31306.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 31306 the following:

"31306a. National clearinghouse for records relating to alcohol and controlled substances testing.".

(c) PENALTIES.—

(1) APPLICATION OF PENALTY.—Section 31306(j) is amended by inserting "An employer, including an individual who is self-employed, shall be subject to civil and criminal penalties in accordance with section 521(b) for a violation of this section." before "This section".

(2) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATIONS AND OPERATORS.—Section 521(b) is amended—

(A) in paragraph (1)(A) by inserting "31306, 31306a," before "31310(g)(1)(A)";

(B) in paragraphs (2)(A), (2)(B), and (6)(A) by inserting "31306, 31306a, or" before "31502"; and

(C) in paragraph (5)(A) by inserting "31306, 31306a," before "or 31502".

(3) CONTROLLED SUBSTANCE OR ALCOHOL TESTING.—Any person acting as a service agent under the Secretary's regulations in part 40 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, who violates the requirements prescribed by the Secretary for conducting alcohol or controlled substances testing under such part or any related regulation of the Department shall be liable to the United States Government for a civil penalty of not more than $10,000 for each violation. Each day that a violation continues shall constitute a separate violation.

SEC. 6402. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue final regulations establishing minimum training requirements for commercial motor vehicle operators.

(b) REQUIREMENTS.—The regulations shall—

(1) require commercial motor vehicle operators, before obtaining a commercial driver's license for the first time or upgrading from one class of commercial driver's license to another, to receive training that meets the requirements established by the Secretary;

(2) address the knowledge and skills necessary for an operator of a commercial motor vehicle to safely operate a commercial motor vehicle;

(3) address the specific and additional training needs of commercial motor vehicle operators seeking passenger or hazardous materials endorsements;

(4) require instruction that is effective for acquiring the knowledge and skills referred to in paragraphs (2) and (3);

(5) require the issuance of a certification that a commercial motor vehicle operator has met the requirements established by the Secretary; and

(6) require a training provider (including public or private driving schools, motor carriers, or owners or operators of a commercial motor vehicle) offering training that results in the issuance of a certification to an operator under paragraph (5) to demonstrate that such training meets the requirements of the regulations, through a process established by the Secretary.

(c) COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.—Section 31308(1) is amended to read as follows:

"(1) an individual issued a commercial driver's license—

"(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

"(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 4042 of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012;".

SEC. 6403. COMMERCIAL DRIVER'S LICENSE PROGRAM.

(a) IN GENERAL.—Section 31309(e)(4)(A) is amended by striking the period at the end and inserting "and must use the systems to receive and submit conviction and disqualification data.".

(b) REQUIREMENTS FOR STATE PARTICIPATION.—

(1) IN GENERAL.—Section 31311(a) is amended—

(A) in paragraph (5) by striking "At least" and all that follows through "regulation)," and inserting the following: "Within the time period the Secretary prescribes by regulation,"; and

(B) by adding at the end the following:

"(22) Before renewing or issuing a commercial driver's license to an individual, the State shall request information pertaining to the individual from the drug and alcohol clearinghouse maintained under section 31306a.

"(23) The State shall ensure that the State's commercial driver's license information system complies with applicable Federal information technology standards.".

(2) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—Section 31311 is amended by adding at the end the following:

"(d) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

"(1) IN GENERAL.—A State shall develop and submit to the Secretary for approval a plan for complying with the requirements of subsection (a) in the period beginning on the date that the plan is approved and ending on September 30, 2017.

"(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

"(A) the actions that the State must take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and

"(B) other actions that the State must take to comply with the requirements of subsection (a).

"(3) PRIORITY.—

"(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2).

"(B) DEADLINE FOR COMPLIANCE WITH REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the requirements of subsection (a) not later than September 30, 2017.

"(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

"(A) review a plan submitted by a State under paragraph (1); and

"(B)(i) approve the plan if the Secretary determines that the plan is adequate to promote the objectives of this section; or

"(ii) disapprove the plan.

"(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under this subsection, the Secretary shall—

"(A) provide the State a written explanation of the disapproval; and

"(B) allow the State to modify and resubmit the plan for approval.

"(6) PLAN UPDATES.—The Secretary may require States to review and update plans, as appropriate.".

(3) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—Section 31311 is further amended by adding at the end the following:

"(e) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—On an annual basis, the Secretary shall—

"(1) conduct a comparison of the relative levels of compliance by States with the requirements of subsection (a); and

"(2) make available to the public the results of the comparison, using a mechanism that the Secretary determines appropriate.".

(c) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.—

(1) IN GENERAL.—Section 31313(a) is amended to read as follows:

"(a) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary of Transportation may make a grant to a State in a fiscal year to assist the State in complying with the requirements of section 31311.

"(2) ELIGIBILITY.—A State shall be eligible for a grant under this subsection if the State has in effect a commercial driver's license program plan approved by the Secretary under section 31311(d).

"(3) USES OF GRANT FUNDS.—A State may use grant funds under this subsection—

"(A) to comply with section 31311; and

"(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver's license program, including expenses—

"(i) for computer hardware and software;

"(ii) for publications, testing, personnel, training, and quality control;

"(iii) for commercial driver's license program coordinators; and

"(iv) to establish and implement a system to notify an employer of an operator of a commercial motor vehicle of a suspension or revocation of such operator's driver's license.

"(C) PROHIBITIONS.—A State may not use grant funds under this subsection to rent, lease, or buy land or buildings.

"(4) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this subsection only if the State provides assurances satisfactory to the Secretary that the total expenditure of amounts of the State and political subdivisions of the State (not including amounts of the United States) for the State's commercial driver's license program will be maintained at a level that at least equals the average level of that expenditure by the State and political subdivisions of the State for the most recent 3 fiscal years ending before the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.".

(2) APPORTIONMENT.—Section 31313 is amended—

(A) by striking subsections (b) and (c);

(B) by redesignating subsection (d) as subsection (b); and

(C) by striking subsection (b) (as so redesignated) and inserting the following:

"(b) APPORTIONMENT.—

"(1) APPORTIONMENT FORMULA.—Subject to paragraph (2), the amounts made available to carry out this section for a fiscal year shall be apportioned among the States in the ratio that—

"(A) the number of commercial driver's licenses issued in each State; bears to

"(B) the total number of commercial driver's licenses issued in all States.

"(2) MINIMUM APPORTIONMENT.—The apportionment to each State that has in effect a commercial driver's license program plan approved by the Secretary under section 31311(d) shall be not less than one-half of 1 percent of the total funds available to carry out this section.".

(3) CONFORMING AMENDMENT.—The section heading for section 31313 is amended by striking "**improvements**" and inserting "**implementation**".

(4) CLERICAL AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

"31313. Grants for commercial driver's license program implementation.".

SEC. 6404. COMMERCIAL DRIVER'S LICENSE PASSENGER ENDORSEMENT REQUIREMENTS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall review and assess the current knowledge and skill testing requirements for a commercial driver's license passenger endorsement to determine what improvements to the knowledge test or examination of driving skills are necessary to ensure the safe operation of commercial motor vehicles designed or used to transport passengers.

(b) REPORT.—Not later than 120 days after completion of the review and assessment under subsection (a), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) a report on the review and assessment conducted under subsection (a);

(2) a plan to implement any changes to the knowledge and skills tests; and

(3) a timeframe by which the Secretary will implement the changes.

SEC. 6405. COMMERCIAL DRIVER'S LICENSE HAZARDOUS MATERIALS ENDORSEMENT EXEMPTION.

(a) IN GENERAL.—The Secretary may not require an individual with a class A commercial driver's license to obtain a hazardous materials endorsement under part 383 of title 49, Code of Federal Regulations (or any successor regulation), in order to operate a service vehicle carrying diesel fuel in quantities of 3,785 liters (1,000 gallons) or less if—

(1) the tank containing such fuel is clearly marked with a placard reading "Diesel Fuel"; and

(2) the individual is acting within the scope of the individual's employment as an employee of any of the following farm-related service industries:

(A) Agri-chemical business.

(B) Custom harvesters.
(C) Farm retail outlets and suppliers.
(D) Livestock feeders.

(b) IMPLEMENTATION.—The Secretary shall carry out subsection (a) in a manner consistent with the exemption provided to restricted commercial driver's license holders under section 383.3(f) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

SEC. 6406. PROGRAM TO ASSIST VETERANS TO ACQUIRE COMMERCIAL DRIVER'S LICENSES.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Defense and in cooperation with the States, shall establish accelerated licensing procedures to assist veterans to acquire commercial driver's licenses.

(b) ACCELERATED LICENSING PROCEDURES.—The procedures established under subsection (a) shall be designed to be applicable to any veteran who—

(1) is attempting to acquire a commercial driver's license; and

(2) obtained, during military service, driving experience that, in the determination of the Secretary, makes the use of accelerated licensing procedures appropriate.

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

(1) COMMERCIAL DRIVER'S LICENSE.—The term "commercial driver's license" has the meaning given that term in section 31301 of title 49, United States Code.

(2) STATE.—The term "State" has the meaning given that term in section 31301 of title 49, United States Code.

(3) VETERAN.—The term "veteran" has the meaning given that term in section 101 of title 38, United States Code.

Subtitle E—Motor Carrier Safety

SEC. 6501. MOTOR CARRIER TRANSPORTATION.

Section 13506(a)(4) is amended by inserting "in interstate or intrastate commerce" after "a motor vehicle".

SEC. 6502. HOURS OF SERVICE STUDY.

(a) HOURS OF SERVICE STUDY.—

(1) IN GENERAL.—Not later than March 31, 2013, the Secretary shall complete a field study on the efficacy of the restart rule published on December 27, 2011 (in this section referred to as the "2011 restart rule"), applicable to operators of commercial motor vehicles of property subject to maximum driving time requirements of the Secretary.

(2) REQUIREMENT.—The study shall expand upon the results of the laboratory-based study relating to commercial motor vehicle driver fatigue sponsored by the Federal Motor Carrier Safety Administration presented in the report of December 2010 titled "Investigation into Motor Carrier Practices to Achieve Optimal Commercial Motor Vehicle Driver Performance: Phase I".

(3) CRITERIA.—In conducting the field study, the Secretary shall ensure that—

(A) the methodology for the field study is consistent, to the maximum extent possible, with the laboratory-based study methodology;

(B) the data collected is representative of the drivers and motor carriers affected by the maximum driving time requirements;

(C) the analysis is statistically valid; and

(D) the field study follows the plan for the "Scheduling and Fatigue Recovery Project" developed by the Federal Motor Carrier Safety Administration.

(b) REPORT TO CONGRESS.—Not later than April 30, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the study.

(c) RULE MODIFICATION AND IMPLEMENTATION.—

(1) APPLICABLE RESTART RULE.—The restart rule published on November 19, 2008, shall remain in effect until the Secretary completes the field study on the 2011 restart rule under subsection (a).

(2) IMPLEMENTATION ON SCHEDULE.—If the Secretary determines that the results of the field study support the 2011 restart rule, the rule shall be implemented beginning on the effective date established in the rule.

(3) MODIFICATION.—

(A) IN GENERAL.—If the Secretary determines that the results of the field study do not support the 2011 restart rule, the Secretary shall—

(i) stay the implementation of the rule; and

(ii) conduct a rulemaking to modify the rule based on the results of the study.

(B) INTERIM RULE.—If the Secretary stays the implementation of the 2011 restart rule under subparagraph (A)(i), the restart rule published on November 19, 2008, shall remain in effect until the effective date of a final rule issued under subparagraph (A)(ii).

SEC. 6503. ELECTRONIC LOGGING DEVICES.

(a) IN GENERAL.—If the Secretary issues regulations regarding electronic logging devices to be used to monitor compliance with the Secretary's requirements for hours of service of drivers under part 395 of title 49, Code of Federal Regulations, the regulations shall include performance standards.

(b) PERFORMANCE STANDARDS AND CERTIFICATION CRITERIA.—

(1) PERFORMANCE STANDARDS.—Any performance standards issued under subsection (a) shall ensure, at a minimum, that an electronic logging device installed in a commercial motor vehicle—

(A) is synchronized to the operation of the vehicle engine or is capable of recognizing when the vehicle is being operated;

(B) is able to identify each individual who operates the vehicle and track the periods during which such individual operates the vehicle;

(C) automatically creates a record of all changes in duty status necessary to determine compliance with part 395 of title 49, Code of Federal Regulations;

(D) enables law enforcement personnel to access information contained in the recorder quickly and easily during a roadside inspection; and

(E) is tamperproof.

(2) CERTIFICATION CRITERIA.—

(A) IN GENERAL.—If the Secretary issues regulations described in subsection (a), the Secretary, in issuing the regulations, shall establish the criteria and a process for the certification of electronic logging devices to ensure that such devices meet the performance standards issued under subsection (a).

(B) EFFECT OF NONCERTIFICATION.—Electronic logging devices that are not certified in accordance with the certification process established under subparagraph (A) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

(3) ADDITIONAL REQUIREMENTS.—If the Secretary issues regulations described in subsection (a), the Secretary, in issuing the regulations, shall—

(A) define a standardized user interface to aid vehicle operator compliance and law enforcement reviews;

(B) establish a secure process for—

(i) standardized and unique vehicle operator identification;

(ii) data access;

(iii) data transfer for vehicle operators between motor vehicles;

(iv) data storage for motor carriers; and

(v) data transfer and transportability for law enforcement;

(C) establish a standard security level for electronic logging devices to be tamperproof; and

(D) establish rules necessary to ensure that electronic logging devices will not be used to harass a vehicle operator.

(c) ADDITIONAL CONSIDERATIONS.—If the Secretary issues regulations described in subsection (a), the Secretary, in issuing the regulations, shall—

(1) evaluate the ability of electronic logging device technologies that meet the performance standards described in subsection (b)—

(A) to record accurately the time an individual operating a commercial motor vehicle spends on duty but not driving, including time spent loading and unloading; and

(B) to ensure all time on duty is accounted for and cannot be altered or otherwise tampered with by the operator or motor carrier;

(2) reduce or eliminate requirements for drivers and motor carriers to retain supporting documentation associated with paper-based records of duty status if—

(A) data contained in an electronic logging device supplants such documentation; and

(B) using such data without paper-based records does not diminish the Secretary's ability to audit and review compliance with the Secretary's hours of service regulations;

(3) include such measures as the Secretary determines are necessary to protect the privacy of individuals whose personal information is contained in an electronic logging device;

(4) include such measures as are necessary to ensure that any information collected by the electronic logging device is used by enforcement personnel only for the purpose of determining compliance with hours-of-service requirements and is stored no longer than necessary under the rules; and

(5) include such measures as are necessary to prohibit public access to data collected by electronic logging devices.

(d) USE OF DATA.—

(1) IN GENERAL.—The Secretary may utilize information contained in an electronic logging device only to enforce the Secretary's motor carrier safety and related regulations, including record-of-duty status regulations.

(2) MEASURES TO PRESERVE CONFIDENTIALITY OF PERSONAL DATA.—The Secretary shall institute appropriate measures to preserve the confidentiality of any personal data contained in an electronic logging device and disclosed in the course of actions taken by the Secretary or law enforcement officials to enforce the regulations referred to in paragraph (1).

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

(1) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given that term in section 31132 of title 49, United States Code.

(2) ELECTRONIC LOGGING DEVICE.—The term "electronic logging device" means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator.

(3) TAMPERPROOF.—The term "tamperproof" means to not allow any individual to cause an electronic device to record the incorrect duty status of a commercial motor vehicle operator under part 395 of title 49, Code of Federal Regulations, or to subsequently alter the record created by that device.

SEC. 6504. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

Section 4144(d) of SAFETEA–LU (49 U.S.C. 31100 note; 119 Stat. 1748) is amended by striking "shall terminate" and all that follows through the period at the end and inserting "shall terminate on September 30, 2017.".

SEC. 6505. TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.

Section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31136 note) is amended to read as follows:

"(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations issued by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for a driver used by a motor carrier, shall not apply during a planting or harvest period of a State, as that period is determined by the State, to—

"(A) drivers transporting agricultural commodities in the State from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;

"(B) drivers transporting farm supplies for agricultural purposes in the State from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or

"(C) drivers transporting farm supplies for agricultural purposes in the State from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.".

SEC. 6506. EXEMPTION RELATING TO TRANSPORTATION OF GRAPES DURING HARVEST PERIODS.

Regulations issued by the Secretary of Transportation under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for a driver used by a motor carrier, shall not apply, beginning on the date of enactment of this Act, to a driver transporting grapes in a State if the transportation—

(1) is during a harvest period (as that period is determined by the State); and

(2) is limited to an area within a 175 air-mile radius from the location where the grapes are picked or distributed.

Subtitle F—Miscellaneous

SEC. 6601. EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN FARM VEHICLES.

(a) FEDERAL REQUIREMENTS.—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:

(1) Any requirement relating to commercial driver's licenses established under chapter 313 of title 49, United States Code.

(2) Any requirement relating to drug testing established under chapter 313 of title 49, United States Code.

(3) Any requirement relating to medical certificates established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 313 of title 49, United States Code.

(4) Any requirement relating to hours of service established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(b) STATE REQUIREMENTS.—

(1) IN GENERAL.—Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from any State requirement relating to the operation of that vehicle.

(2) EXCEPTION.—Paragraph (1) does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

(c) COVERED FARM VEHICLE DEFINED.—

(1) IN GENERAL.—In this section, the term "covered farm vehicle" means a motor vehicle—

(A) that—

(i) is traveling in the State in which the vehicle is registered or another State;

(ii) is operated by—

(I) a farm owner or operator;

(II) a ranch owner or operator; or

(III) an employee or family member of an individual specified in subclause (I) or (II);

(iii) is transporting to or from a farm or ranch—

(I) agricultural commodities;

(II) livestock; or

(III) machinery or supplies;

(iv) except as provided in paragraph (2), is not used in the operations of a for-hire motor carrier; and

(v) is equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(B) that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is—

(i) 26,001 pounds or less; or

(ii) greater than 26,001 pounds and traveling within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

(2) INCLUSION.—In this section, the term "covered farm vehicle" includes a motor vehicle that meets the requirements of paragraph (1) (other than paragraph (1)(A)(iv)) and is—

(A) operated pursuant to a crop share farm lease agreement;

(B) owned by a tenant with respect to that agreement; and

(C) transporting the landlord's portion of the crops under that agreement.

SEC. 6602. TECHNICAL CORRECTION.

Section 306(c)(2)(B) of the SAFETEA–LU Technical Corrections Act of 2008 (29 U.S.C. 207 note; 122 Stat. 1621) is amended—

(1) in clause (ii) by striking "or" at the end;

(2) in clause (iii) by striking "and" at the end and inserting "or"; and

(3) by adding at the end the following:

"(iv) operating under contracts with rail carriers subject to part A of subtitle IV of title 49, United States Code, and used to transport employees of such rail carriers; and".

SEC. 6603. STUDY OF IMPACT OF REGULATIONS ON SMALL TRUCKING COMPANIES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to assess trends in motor carrier safety relating to small trucking companies and independent operators, including the extent to which Federal motor carrier safety regulation adversely impacts and economically and competitively disadvantages

small trucking companies and independent operators and the extent to which there is a correlation between company size and crash rates and crash causation.

(b) CONTENTS.—The study shall contain the following:

(1) Overall trends in highway crashes involving large trucks for the past 2 decades, including a separate analysis of the annual number of incidents involving a large truck only, a truck and automobile, and more than one large truck.

(2) Crash causation factors typical in each type of incident described in paragraph (1), including the frequency of large truck crashes caused by or in which an automobile driver was predominately at fault, and the ratio of truck driver fatigue versus automobile driver fatigue.

(3) The correlation of—

(A) truck driver turnover and truck driver retention and longevity rates with a given trucking company to company crash rates, crash causation, the severity of injuries, number of fatalities, and fault; and

(B) truck driver experience and safety records proportional to company size.

(4) The role of truck driver experience level, longevity with a given trucking company, retention rate, high driver turnover rates, and truck driver inexperience in highway crashes involving trucks, and the degree to which each is a factor in a crash.

(5) The degree and frequency of such contributing factors as weather conditions, traffic congestion, daytime or nighttime conditions, variety of road and vehicle types, and types of pick-up and delivery locations (such as urban, rural, and small metropolitan areas) in crashes involving a truck.

(6) Impacts and incentives perceived by truck drivers caused by current Federal motor carrier safety regulations and the inflexibility in the application and enforcement of regulations.

(7) An assessment of the data quality of the Compliance, Safety, and Accountability initiative of the Federal Motor Carrier Safety Administration, including compliance with the Data Quality Act (Public Law 106–554; section 515 of H.R. 5658, as introduced on December 14, 2000), the number of carriers for which there is insufficient data, discrepancies in measurements and methodologies, complaints about data quality, and whether company size impacts data quality.

(c) REPORT.—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, including recommendations for achieving a better balance of safety with competition and efficiency and recommendations to reduce adverse regulatory impacts on small trucking companies and independent operators.

(d) PROHIBITION.—No proposed regulations from the Federal Motor Carrier Safety Administration that relate to the contents of the study may become final or take effect before the expiration of the 180-day period beginning on the date the Comptroller General submits to the Committees the report described in subsection (c).

SEC. 6604. REPORT ON SMALL TRUCKING COMPANIES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the efforts of the Department of Transportation to better balance truck competition and efficiency with safety.

(b) CONTENTS.—The report shall contain the following:

(1) A description of specific steps that modal administrations within the Department have taken and plan to take to reduce economic and competitive disadvantages imposed by specific regulations on small trucking companies, their truck drivers, and independent operators.

(2) A description of specific performance goals, plans for, and performance to date on regulatory flexibility measures, pursuant to the Regulatory Flexibility Act (Public Law 96–354), the Data Quality Act (Public Law 106–554; section 515 of H.R. 5658, as introduced on December 14, 2000), and the Paperwork Reduction Act of 1980 (Public Law 96–511), that are affirmatively and precisely designed to achieve greater flexibility with respect to regulatory compliance, in particular detailing concrete steps to reasonably accommodate the needs unique to small trucking companies, independent operators, and special load haulers (such as of livestock, frozen foodstuffs, and automobiles), relating to hours of service rules, log- and recordkeeping, and the accounting of driver time lost due to loading and unloading, traffic, or weather delays.

(3) A table showing the relation of truck driver experience and tenure with a trucking company or as an independent operator to incidence of being at fault in an accident.

SEC. 6605. RULEMAKING ON ROAD VISIBILITY OF AGRICULTURAL EQUIPMENT.

(a) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary, after consultation with the American Society of Agricultural and Biological Engineers, other appropriate Federal agencies, and other appropriate persons, shall issue a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road. Such rule shall establish minimum lighting and marking standards for applicable agricultural equipment manufactured 1 year or more subsequent to the effective date of the rule. Such rule shall provide for methods, materials, specifications, or equipment employed, equivalent to the standard set in ANSI/ASAE S279.14 published in July 2008 by the American Society of Agriculture and Biological Engineers and entitled "Lighting and Marking of Agricultural Equipment on Highways", or any successor standard.

(b) REVIEW.—The Secretary shall periodically, and not less than once every 5 years, review the standards established under this section and shall revise the standards to reflect the provisions of the edition of ANSI/ASAE S279 that is in effect at the time of the review.

(c) RULES OF CONSTRUCTION.—

(1) COMPLIANCE WITH SUCCESSOR STANDARDS.—No provision of any rule issued pursuant to this section shall prohibit the operation on public roads of agricultural equipment that is equipped according to any adopted edition of ANSI/ASAE S279 that is later than the edition of such standard that is referenced during the issuance of the rule.

(2) NO RETROFITTING REQUIRED.—No provision of any rule issued pursuant to this section shall require the retrofitting of agricultural equipment that is manufactured prior to 1 year after the date on which a final rule is issued pursuant to subsection (a).

(3) NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.—No provision of any rule issued pursuant to this section shall prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified by the standards established under the rule.

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

(1) AGRICULTURAL EQUIPMENT.—The term "agricultural equipment" means "agricultural field equipment" as defined under the standard ANSI/ASABE S390.4 published by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) PUBLIC ROAD.—The term "public road" has the meaning given that term in section 101 of title 23, United States Code.

SEC. 6606. TRANSPORTATION OF HORSES.

Section 80502 of title 49, United States Code, is amended—

(1) in subsection (c) by striking "This section does not" and inserting "Subsections (a) and (b) do not";

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following:

"(d) TRANSPORTATION OF HORSES.—

"(1) PROHIBITION.—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing 2 or more levels stacked on top of each other.

"(2) MOTOR VEHICLE DEFINED.—In this subsection, the term 'motor vehicle' has the meaning given that term in section 13102."; and

(4) in subsection (e) (as redesignated by paragraph (2) of this subsection)—

(A) by striking "A rail carrier" and inserting the following:

"(1) IN GENERAL.—A rail carrier";

(B) by striking "this section" and inserting "subsection (a) or (b)";

(C) by striking "On learning of a violation" and inserting the following:

"(2) TRANSPORTATION OF HORSES IN MULTILEVEL TRAILER.—

"(A) CIVIL PENALTY.—A person that knowingly violates subsection (d) is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. A separate violation occurs under subsection (d) for each horse that is transported, or caused to be transported, in violation of subsection (d).

"(B) RELATIONSHIP TO OTHER LAWS.—The penalty provided under subparagraph (A) shall be in addition to any penalty or remedy available under any other law or common law.

"(3) CIVIL ACTION.—On learning of a violation of a provision of this section".

SEC. 6607. REGULATORY REVIEW AND REVISION.

Not later than 12 months after the date of enactment of this Act, the Secretary shall review and revise the Federal motor carrier safety regulations contained in chapter III of subtitle B of title 49, Code of Federal Regulations, to—

(1) simplify the regulations; and

(2) eliminate those requirements that are outmoded or excessively burdensome.

SEC. 6608. ISSUANCE OF SAFETY REGULATIONS.

The Secretary shall take such actions as may be necessary in fiscal year 2012 to expedite the issuance of safety regulations to carry out this title (and the amendments made by this title) following the effective date of this title.

SEC. 6609. REPEALS.

(a) REPEAL OF HIGH-PRIORITY PROGRAM.—Section 31104(k) is repealed.

(b) BORDER ENFORCEMENT GRANTS.—Section 31107, and the item relating to that section in the analysis for chapter 311, are repealed.

(c) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.—Subsections (c), (d), and (e) of section 4123 of SAFETEA–LU (119 Stat. 1735–1736) are repealed.

(d) OUTREACH AND EDUCATION.—Section 4127 of SAFETEA–LU (119 Stat. 1741), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(e) SAFETY DATA IMPROVEMENT PROGRAM.—Section 4128 of SAFETEA–LU (119 Stat. 1742), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(f) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134 of SAFETEA–LU (119 Stat. 1744), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(g) REPORT ON MOTOR CARRIER EMPLOYEE PROTECTIONS.—Section 4023 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31105 note; 112 Stat. 415), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

TITLE VII—RESEARCH AND EDUCATION

SEC. 7001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Alternative Transportation Account of the Highway Trust Fund:

(1) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out section 503 of title 23, United States Code, $141,750,000 for each of fiscal years 2013 through 2016.

(2) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—To carry out section 503a of title 23, United States Code, $60,750,000 for each of fiscal years 2013 through 2016.

(3) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, $25,500,000 for each of fiscal years 2013 through 2016.

(4) INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH.—To carry out sections 512, 514, 515, 516, and 517 of title 23, United States Code, $110,000,000 for each of fiscal years 2013 through 2016.

(5) UNIVERSITY TRANSPORTATION RESEARCH.—To carry out section 5506 of title 49, United States Code, $75,000,000 for each of fiscal years 2013 through 2016.

(6) BUREAU OF TRANSPORTATION STATISTICS.—To carry out section 111 of title 49, United States Code, $27,000,000 for each of fiscal years 2013 through 2016.

(b) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 80 percent, unless otherwise expressly provided by this Act (including the amendments made by this Act) or otherwise determined by the Secretary, and such funds shall remain available until expended and shall not be transferable.

SEC. 7002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Alternative Transportation Account of the Highway Trust Fund by section 7001(a) shall be $440,000,000 for each of fiscal years 2013 through 2016.

SEC. 7003. DEFINITIONS.

Section 501 of title 23, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (7);

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

(3) by inserting before paragraph (2) (as so redesignated) the following:

"(1) CONNECTED VEHICLE TECHNOLOGY.—The term 'connected vehicle technology' means the utilization of wireless technology to enable multiple vehicles to communicate information to each other."; and

(4) by inserting after paragraph (2) (as so redesignated) the following:

"(3) INCIDENT.—The term 'incident' means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

"(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

"(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(6) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.".

SEC. 7004. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.

(a) IN GENERAL.—Section 502 of title 23, United States Code, is amended—

(1) in the section heading by striking "**research**" and inserting "**research, development, and technology**";

(2) in subsection (a)—

(A) in paragraph (2)—

(i) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(ii) by inserting after subparagraph (A) the following:

"(B) addresses current or emerging needs;";

(iii) in subparagraph (C) (as redesignated by clause (i) of this subparagraph) by striking "supports research in which there is" and inserting "delivers";

(iv) in subparagraph (D) (as redesignated by clause (i) of this subparagraph) by striking "or" after the semicolon;

(v) in subparagraph (E) (as redesignated by clause (i) of this subparagraph) by striking the period at the end and inserting a semicolon; and

(vi) by adding at the end the following:

"(F) presents the best means to align resources with multiyear plans and priorities; or

"(G) ensures the coordination of highway research and technology transfer activities, including those performed by the university transportation centers established under subchapter I of chapter 55 of title 49.";

(B) in paragraph (3)—

(i) in subparagraph (B)—

(I) by striking "support and" and inserting "partner with State transportation departments and other stakeholders as appropriate to"; and

(II) by striking "by State highway agencies";

(ii) in subparagraph (C)—

(I) by striking "share" and inserting "communicate";

(II) by inserting "on-going and" before "completed"; and

(III) by striking "and" after the semicolon;

(iii) in subparagraph (D)—

(I) by striking "support and facilitate technology" and inserting "lead efforts to coordinate areas of national emphasis for highway research, technology,"; and

(II) by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

"(E) leverage partnerships with industry, academia, and other entities; and

"(F) conduct, facilitate, and support training and education of current and future transportation professionals.";

(C) in paragraph (4)(C) by striking "policy and planning" and inserting "all highway objectives seeking to improve the performance of the transportation system";

(D) in paragraph (5) by inserting "tribal governments," after "local governments,";

(E) by striking paragraph (7) and inserting the following:

"(7) PERFORMANCE REVIEW AND EVALUATION.—

"(A) IN GENERAL.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation.

"(B) PERFORMANCE MEASURES.—Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent practicable, be outcome-based.

"(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under this chapter shall be part of a data-driven, outcome-oriented program plan.

"(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph shall be made readily available to the public."; and

(F) in paragraph (8) by striking "surface";

(3) in subsection (b)—

(A) by striking paragraph (4) and inserting the following:

"(4) TECHNOLOGICAL INNOVATION.—The Secretary shall ensure that the programs and activities carried out under this chapter are consistent with the transportation research and development strategic plan developed under section 508.";

(B) in paragraph (5) by striking "section" each place it appears and inserting "chapter";

(C) in paragraph (6) by adding at the end the following:

"(C) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary, at the request of a State, may transfer funds apportioned or allocated under this chapter to the State to another State, or to the Federal Highway Administration, for the purpose of funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

"(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for projects that are transferred under this subsection."; and

(D) by adding at the end the following:

"(7) PRIZE COMPETITIONS.—

"(A) IN GENERAL.—Consistent with section 24 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may carry out a program to award prizes competitively to stimulate innovation in the area of surface transportation that has the potential to advance the Federal Highway Administration's research and technology objectives and activities under section 503.

"(B) ANNUAL REPORT.—

"(i) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate a report on the activities carried out during the preceding fiscal year under the authority in subparagraph (A) if such authority under subparagraph (A) was utilized by the Secretary.

"(ii) INFORMATION INCLUDED.—A report under this subparagraph shall include, for each prize competition under subparagraph (A), the following:

"(I) A description of the proposed goals of each prize competition.

"(II) An analysis of why the utilization of the authority in subparagraph (A) was the preferable method of achieving the goals described in subclause (I) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

"(III) The total amount of cash prizes awarded for each prize competition, including a description of the amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the agency for recording as obligations and expenditures.

"(IV) The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

"(V) A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

"(VI) A description of how each prize competition advanced the mission of the Department of Transportation.";

(4) in subsection (c)—

(A) in paragraph (3)(A)—

(i) by striking "The" and inserting "Except as otherwise provided in this chapter, the";

(ii) by striking "subsection" and inserting "chapter"; and

(iii) by striking "50" and inserting "80";

(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. 7005. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 503 of title 23, United States Code, is amended to read as follows:

"§ 503. Research and development

"(a) IN GENERAL.—The Secretary shall establish a research and development program in accordance with this section and the strategic plan developed under section 508.

"(b) RESPONSIBILITIES.—To address current and emerging highway transportation needs, the Secretary, in carrying out the program under this section, shall—

"(1) identify research topics;

"(2) conduct research, testing, and evaluation activities;

"(3) facilitate technology transfer;

"(4) provide technical assistance; and

"(5) ensure program activities are coordinated with the transportation research and development strategic plan developed under section 508.

"(c) IMPROVING HIGHWAY SAFETY.—

"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall create systematic measures to improve highway safety for all road users, vehicles, and public roads to—

"(A) achieve greater long-term safety gains;

"(B) reduce the number of fatalities and serious injuries;

"(C) fill knowledge gaps that currently limit the effectiveness of research;

"(D) support the development and implementation of State strategic highway safety plans under section 148;

"(E) advance improvements in and use of performance prediction analysis for decisionmaking;

"(F) expand technology transfer to partners and stakeholders;

"(G) achieve safety benefits through connected vehicle technology; and

"(H) enhance rural highway safety.

"(2) ACTIVITIES.—Research and development activities carried out under this subsection may include activities relating to—

"(A) safety assessments and decisionmaking tools;

"(B) data collection and analysis;

"(C) crash reduction projections;
"(D) low-cost safety countermeasures;
"(E) innovative operational improvements and designs of roadway and roadside features;
"(F) evaluation of countermeasure costs and benefits;
"(G) development of tools for projecting impacts of safety countermeasures;
"(H) rural road safety;
"(I) safety policy studies;
"(J) human factors studies and methods;
"(K) safety technology deployment;
"(L) safety program and process improvements; and
"(M) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

"(d) IMPROVING HIGHWAY INFRASTRUCTURE INTEGRITY.—
"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall improve the ability to maintain highway infrastructure integrity, meet user needs, and improve system performance through targeted Federal transportation investments to—
"(A) reduce the number of fatalities attributable to highway infrastructure design characteristics and work zones;
"(B) improve the safety of highway infrastructure;
"(C) increase the reliability of life-cycle performance predictions used in highway infrastructure design, construction, and management;
"(D) improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;
"(E) reduce user delay attributable to highway infrastructure system performance, maintenance, rehabilitation, and construction;
"(F) improve highway condition and performance through increased use of innovative pavements during highway design, construction, and maintenance;
"(G) improve highway condition and performance through increased use of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges;
"(H) reduce the life-cycle environmental impacts of highway infrastructure, including design, construction, operation, preservation, and maintenance; and
"(I) improve the resiliency of roadways to commercial heavy freight traffic.
"(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include activities relating to—
"(A) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;
"(B) short-term and accelerated studies of highway infrastructure performance;
"(C) the development of more durable highway and bridge infrastructure materials and systems, including the use of carbon fiber composite materials in bridge replacement and rehabilitation;
"(D) advanced highway and bridge infrastructure design methods;
"(E) accelerated highway construction;
"(F) performance-based specifications;
"(G) construction and materials quality assurance;
"(H) comprehensive and integrated highway infrastructure asset management;
"(I) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, stormwater runoff, and flooding and to treat or remove pollutants by allowing stormwater to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions;
"(J) sustainable highway infrastructure design and construction;
"(K) highway and bridge infrastructure rehabilitation and preservation techniques, including those techniques to address historic infrastructure;
"(L) hydraulic, geotechnical, and aerodynamic aspects of highway infrastructure;
"(M) improved highway construction technologies and practices;
"(N) improved tools, technologies, and models for highway and bridge infrastructure management, including assessment and monitoring of infrastructure condition;

"(O) improving flexibility and resiliency of highway and bridge infrastructure systems to withstand climate variability; and

"(P) highway infrastructure resilience and other adaptation measures.

"(e) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall examine approaches to reduce traffic congestion (including freight-related congestion throughout the transportation network), reduce the costs of such congestion, and improve freight movement.

"(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include examination of—

"(A) active traffic and demand management;

"(B) accelerating deployment of intelligent transportation systems;

"(C) arterial management and traffic signal operation;

"(D) congestion pricing;

"(E) corridor management;

"(F) emergency operations;

"(G) freeway management;

"(H) impacts of vehicle size and weight;

"(I) freight operations and technology;

"(J) operations and freight performance measurement and management;

"(K) organizing and planning for operations;

"(L) planned special events management;

"(M) real-time transportation information, including real-time ride-sharing;

"(N) road weather management;

"(O) traffic and freight data and analysis tools;

"(P) traffic control devices;

"(Q) traffic incident management;

"(R) workzone management;

"(S) mechanisms that communicate travel, roadway, and emergency information to all road users (as defined in section 148); and

"(T) enhanced mode choice and intermodal connectivity.

"(f) ASSESSING POLICY AND SYSTEM FINANCING ALTERNATIVES.—

"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall conduct policy analysis on emerging issues in the transportation community to provide information to policymakers and decisionmakers.

"(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include activities relating to—

"(A) highway needs and investment analysis;

"(B) analysis of legislative development and implementation;

"(C) highway policy analysis;

"(D) the effect of highway congestion on the economy;

"(E) research in emerging policy areas;

"(F) advancing innovations in revenue generation, financing, and procurement for project delivery;

"(G) improving project financial and cost analysis;

"(H) highway performance measurement;

"(I) travel demand performance measurement; and

"(J) highway finance performance measurement.

"(3) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

"(A) IN GENERAL.—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of highway and bridge needs at the time of the report.

"(B) COMPARISON.—Each report under subparagraph (A) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

"(g) EXPLORATORY ADVANCED RESEARCH.—In carrying out the program under this section, the Secretary shall conduct long-term, higher-risk research, consistent with the transportation research and development plan under section 508, with the potential for dramatic breakthroughs in the field of highway transportation.

"(h) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—In carrying out the program under this section, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, pri-

vate sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities.

"(2) APPLICATIONS.—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and contain such information and assurances as the Secretary may require.

"(3) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

"(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

"(2) USES OF THE CENTER.—The Center shall support—

"(A) the conduct of highway research and development related to new highway technology, including connected vehicle technology;

"(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

"(C) the development of innovative highway products and practices; and

"(D) long-term high-risk research to improve the materials used in highway infrastructure.

"(j) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

"(1) ESTABLISHMENT.—The Secretary may establish not more than 4 centers for surface transportation excellence.

"(2) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation.

"(3) ROLE OF THE CENTERS.—To achieve the goals set forth in paragraph (2), the Secretary shall establish centers that provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in effectively implementing surface transportation programs, projects, and policies.

"(4) PROGRAM ADMINISTRATION.—

"(A) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary under this subsection, or receiving a grant to perform research or provide technical assistance under this subsection, shall be selected on a competitive basis.

"(B) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan, and submit the plan to the Secretary at such time as the Secretary requires, that describes—

"(i) the activities to be undertaken by the center; and

"(ii) how the work of the center will be coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this chapter.

"(5) FUNDING.—Of the amounts made available by section 7001(a)(1) of the American Energy and Infrastructure Jobs Act of 2012, not more than $3,000,000 for each of fiscal years 2013 through 2016 shall be available to carry out this subsection.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item relating to section 503 and inserting the following:

"503. Research and development.".

SEC. 7006. TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by inserting after section 503 the following:

"§ 503a. Technology and innovation deployment program

"(a) IN GENERAL.—The Secretary, in accordance with the strategic plan developed under section 508, shall carry out a technology and innovation deployment program on all aspects of highway transportation by promoting and facilitating the products, technologies, tools, methods, or other findings resulting from highway research conducted under this chapter.

"(b) OBJECTIVES.—The Secretary shall seek to advance the following objectives:

"(1) Significantly accelerate the adoption of innovative technologies by the surface transportation community.

"(2) Significantly accelerate the adoption of advanced modeling technologies, as described in section 106, by the surface transportation community.

"(3) Provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

"(4) Advance longer-lasting highways using innovative technologies and practices to accomplish more rapid construction of efficient and safe highways and bridges.

"(5) Improve highway efficiency, safety, mobility, reliability, service life, and environmental protection.

"(6) Develop and deploy new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

"(7) Enhance deployment and operations of intelligent transportation systems.

"(c) ACTIVITIES.—The program may include—

"(1) activities conducted under section 503;

"(2) other technologies and innovations requiring additional development and testing not performed under section 503 but necessary to bring about successful deployment and delivery; and

"(3) developing and improving innovative technologies and practices and exploring new technologies to accelerate innovation adoption.

"(d) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—Under the program, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, private sector entities, Federal laboratories, and nonprofit organizations to pay the Federal share of the cost of research, development, and deployment activities.

"(2) APPLICATIONS.—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and contain such information and assurances as the Secretary may require.

"(3) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(e) DEPLOYMENT OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM RESULTS AND PRODUCTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the National Academy of Sciences, shall promote research results and products developed under the Strategic Highway Research Program 2 administered by the Transportation Research Board of the National Academy of Sciences.

"(2) STRATEGY OF PROMOTION.—The Secretary, to the extent practicable, shall base the deployment of research results and products described in paragraph (1) on the recommendations included in the Transportation Research Board Special Report 296 entitled 'Implementing the Results of the Second Strategic Highway Research Program: Saving Lives, Reducing Congestion, Improving Quality of Life'.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by inserting after the item relating to section 503 the following:

"503a. Technology and innovation deployment program.".

SEC. 7007. TRAINING AND EDUCATION.

Section 504 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking subparagraph (A) and inserting the following:

"(A) Federal Highway Administration employees, State and local transportation agency employees, and Federal agency partners;";

(2) in subsection (b) by striking paragraph (3) and inserting the following:

"(3) FEDERAL SHARE.—

"(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—Subject to clause (ii), the Federal share of the cost of any activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent, except that the remaining share may include funds provided to a recipient under subsection (e) or section 505.

"(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.";

(3) in subsection (c)(2) by adding at the end the following: "Funds provided to institutions of higher education to carry out this paragraph shall be used in direct support of student expenses associated with their transportation studies.";

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (g) as subsections (d) through (f), respectively;

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

(A) in paragraph (1)—

(i) by striking "sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)" and inserting "paragraphs (1), (2), and (3) of section 104(b)";

(ii) in subparagraph (D) by striking "and";

(iii) in subparagraph (E) by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

"(F) activities delivered by the National Highway Institute under subsection (a); and

"(G) the local technical assistance program under subsection (b)."; and

(B) in paragraph (2) by inserting before the period at the end the following: ", except for activities carried out under paragraph (1)(G), for which the Federal share shall be 50 percent as described in subsection (b)(3)(A)"; and

(7) in the heading of subsection (e) (as redesignated by paragraph (5) of this section) by striking "PILOT".

SEC. 7008. STATE PLANNING AND RESEARCH.

Section 505(a) of title 23, United States Code, is amended in the first sentence by striking "104(h)) and under section 144" and inserting "104(i))".

SEC. 7009. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Section 506 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

SEC. 7010. SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.

Section 507 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

SEC. 7011. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "SAFETEA-LU" and inserting "American Energy and Infrastructure Jobs Act of 2012"; and

(B) by adding ", acting through the Administrator of the Research and Innovative Technology Administration," after "Secretary"; and

(2) in paragraph (2)(A)(iii) by striking "promoting security" and inserting "improving goods movement".

SEC. 7012. NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM.

Section 509 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

SEC. 7013. FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

Section 510 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

SEC. 7014. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM PLAN.

(a) IN GENERAL.—Section 512 of title 23, United States Code, is amended—

(1) in the section heading by striking "**ITS**" and inserting "**intelligent transportation systems**"; and

(2) in subsection (a)(1) by striking "SAFETEA-LU" and inserting "American Energy and Infrastructure Jobs Act of 2012".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 512 and inserting the following:

"512. National intelligent transportation systems program plan.".

SEC. 7015. USE OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS ACTIVITIES.

(a) IN GENERAL.—Section 513 of title 23, United States Code, is amended—

(1) in the section heading by striking "**ITS**" and inserting "**intelligent transportation systems**"; and

(2) in subsection (a) by striking "subtitle C of title V of the SAFETEA-LU" and inserting "section 7001(a)(4) of the American Energy and Infrastructure Jobs Act of 2012".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 513 and inserting the following:

"513. Use of funds for intelligent transportation systems activities.".

SEC. 7016. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM GOALS AND PURPOSES.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding at the end the following:

"§ 514. Intelligent transportation systems program goals and purposes

"(a) GOALS.—The goals of the intelligent transportation system program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

"(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, and bicycles and pedestrians, including individuals with disabilities; and

"(5) improvement of the Nation's ability to respond to emergencies and natural disasters.

"(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

"(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

"(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

"(4) promote the innovative use of private resources;

"(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

"(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

"(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

"(8) provide continuing support for operations and maintenance of intelligent transportation systems.".

(b) REPEAL.—Section 5303 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 513 the following:

"514. Intelligent transportation systems program goals and purposes.".

SEC. 7017. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM GENERAL AUTHORITIES AND REQUIREMENTS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

"§ 515. Intelligent transportation systems program general authority and requirements

"(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and to provide technical assist-

ance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

"(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, private sector firms in the United States, Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

"(g) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this chapter; and

"(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) AGREEMENT.—

"(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

"(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

"(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

"(h) INFRASTRUCTURE DEVELOPMENT.—Funds made available to carry out this chapter for operational tests—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.".

(b) REPEAL.—Sections 5304 and 5305 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users are repealed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is further amended by adding after the item relating to section 514 the following:

"515. Intelligent transportation systems program general authority and requirements.".

SEC. 7018. INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

"§ 516. Intelligent transportation systems research and development

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this chapter.

"(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

"(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

"(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

"(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

"(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

"(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

"(6) enhance safety through improved crash avoidance and protection, crash and other emergency personnel notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

"(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.".

(b) REPEAL.—Section 5306 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is further amended by adding after the item relating to section 515 the following:

"516. Intelligent transportation systems research and development.".

SEC. 7019. INTELLIGENT TRANSPORTATION SYSTEMS NATIONAL ARCHITECTURE AND STANDARDS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

"§ 517. Intelligent transportation systems national architecture and standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

"(b) PROVISIONAL STANDARDS.—

"(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.

"(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

"(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this chapter, to deploy intelligent transportation system technologies conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

"(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

"(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of the SAFETEA-LU if the Secretary determines that the upgrade or expansion—

"(i) would not adversely affect the goals or purposes of this chapter;

"(ii) is carried out before the end of the useful life of such system; and

"(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of the SAFETEA-LU.

"(d) STANDARD DEFINED.—The term 'standard' means a document that—

"(1) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(2) may support the national architecture and promote—

"(A) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(B) interoperability among intelligent transportation system technologies implemented throughout the States.".

(b) REPEAL.—Section 5307 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is further amended by adding after the item relating to section 516 the following:

"517. Intelligent transportation systems national architecture and standards.".

SEC. 7020. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

Section 5505 of title 49, United States Code, and the item relating to such section in the analysis of chapter 55 of such title, are repealed.

SEC. 7021. UNIVERSITY TRANSPORTATION RESEARCH.

Section 5506 of title 49, United States Code, is amended—

(1) in subsection (b)(1) by inserting "that is consistent with section 503 of title 23" after "applied research";

(2) in subsection (c)—

(A) in the heading by striking "REGIONAL, TIER I, AND TIER II CENTERS" and inserting "REGIONAL AND STANDARD CENTERS";

(B) in paragraph (1)—

(i) in the heading by striking "REGIONAL AND TIER I CENTERS" and inserting "REGIONAL AND STANDARD CENTERS";

(ii) in the matter preceding subparagraph (A) by striking "2005 through 2009" and inserting "2013 through 2016"; and

(iii) in subparagraph (B) by striking "10 Tier I" and inserting "20 standard";

(C) by striking paragraph (2); and

(D) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(3) in subsection (d) by adding at the end the following:

"(3) OPPORTUNITY ANNOUNCEMENT.—

"(A) PUBLIC DISCLOSURE.—All funding opportunities under this section shall be publically announced and shall be posted on the Department of Transportation's Web site and on Grants.gov. Any announcement shall, at a minimum, include a detailed description of how applications will be evaluated and a list of any specific research areas, educational objectives, or technology transfer objectives expected to be addressed by an application.

"(B) INPUT.—In developing an opportunity announcement under this paragraph, the Secretary shall solicit the input of transportation stakeholders, including academic researchers, State highway and transportation departments, local and regional governments, private industry, the Administrator of the Research and Innovative Technology Administration, and Administrators of other relevant Department of Transportation agencies.

"(4) PROPOSAL REVIEW AND SELECTION.—

"(A) IN GENERAL.—The Secretary shall make award decisions under subsection (c)(1) through a peer-reviewed, merit-based process. The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities under this paragraph as the Secretary determines are appropriate.

"(B) PEER-REVIEW.—

"(i) IN GENERAL.—The Secretary, acting through the National Research Council of the National Academy of Sciences, shall establish a

peer-review process in which all proposals shall be reviewed by an external committee of experts.

"(ii) SELECTION.—The external committee of experts shall be selected and convened by the Transportation Research Board of the National Research Council based on—

"(I) their specific knowledge of transportation research fields or their broad knowledge of transportation research fields;

"(II) their knowledge of associated educational activities;

"(III) their broad knowledge of the community of transportation practitioners; and

"(IV) to the extent possible, diverse representation within the review group.

"(iii) DUTIES.—The external committee of experts shall evaluate proposals based on the degree to which they advance the objectives in subsection (b), the selection criteria in paragraph (2) of this subsection, and any additional review criteria set forth in the opportunity announcements described in paragraph (3) of this subsection.

"(iv) REPORT.—The external committee of experts shall issue a report, published and made available to the public by the Transportation Research Board, summarizing the evaluation process and explaining its findings.

"(v) COST.—The Secretary shall pay for any necessary expenses associated with peer-review with a portion of the funds assigned to the Research and Innovative Technology Administration for administration of this section.

"(C) SECRETARIAL REVIEW.—The Secretary, in consultation with the Administrator of the Research and Innovative Technology Administration and Administrators of any other relevant Department of Transportation agencies, shall make final award decisions. The Secretary's decision shall consider—

"(i) the findings of the committee under subparagraph (B);

"(ii) the portfolio of other programs funded under this section;

"(iii) the objectives set forth in subsection (b);

"(iv) the criteria set forth in paragraph (2);

"(v) the details included in the opportunity announcement required under paragraph (3); and

"(vi) other current proposals and previously funded proposals.

"(D) TRANSPARENCY.—

"(i) IN GENERAL.—The Secretary shall provide to each applicant of a proposal copies of reviews by the committee under subparagraph (B) and any other materials used in the evaluation process (with any reviewer identifying information redacted) of the applicant's proposal.

"(ii) PUBLIC AVAILABILITY.—The Secretary shall make results of the review process available to all applicants and to the public on the Department's website.

"(iii) REPORT.—The Secretary shall issue a public report that includes, at a minimum—

"(I) the results of the peer-review process, including the findings of the committee under subparagraph (B); and

"(II) the reasons for the Secretary's final decision, including a description of—

"(aa) the context in which the proposal was reviewed; and

"(bb) how the findings of the committee under subparagraph (B) were used in reaching the final decision.";

(4) in subsection (e)—

(A) in paragraph (1) by striking "March 31, 2006, and not later than March 31st of every 4th year thereafter" and inserting "180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter";

(B) in paragraph (5)—

(i) in subparagraph (B) by striking "and";

(ii) in subparagraph (C) by striking the period and adding "; and"; and

(iii) by adding at the end the following:

"(D) $3,500,000 for each of fiscal years 2013 through 2016."; and

(C) by adding at the end the following:

"(6) RESEARCH REQUIREMENT.—

"(A) COMPREHENSIVE TRANSPORTATION SAFETY.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers es-

tablished under subsection (c) for the purpose of furthering the objectives described in subsection (b) in the field of comprehensive transportation safety.

"(B) INTELLIGENT TRANSPORTATION SYSTEMS.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under subsection (c) (other than the center described in subparagraph (A)) for the purpose of furthering the objectives described in subsection (b) in the field of intelligent transportation systems.

"(7) COMPETITIVE PROCESS.—The Secretary shall make award decisions through a competitive process that follows the requirements described in subsections (d)(3) and (d)(4) and incorporates the additional selection criteria set forth in paragraph (2) of this subsection.";

(5) in subsection (f)—

(A) by striking "TIER I" in the subsection heading and inserting "STANDARD";

(B) in paragraph (1)—

(i) by striking "June 30, 2006, and not later than June 30 of every 4th year thereafter" and inserting "180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter"; and

(ii) by striking "10 Tier I" and inserting "20 standard";

(C) in paragraph (3) by striking "Tier I" and inserting "standard"; and

(D) in paragraph (5)—

(i) by striking "$1,000,000" and inserting "$2,000,000";

(ii) by striking "2005 through 2009" and inserting "2013 through 2016"; and

(iii) by striking "Tier I" and inserting "standard";

(6) by striking subsection (g) and redesignating subsections (h) through (m) as subsections (g) through (l), respectively;

(7) in subsection (h) (as redesignated by paragraph (5) of this section)—

(A) by striking "MAINTENANCE OF EFFORT.—"and all that follows through "In order to be" and inserting "MAINTENANCE OF EFFORT.—In order to be"; and

(B) by striking paragraph (2);

(8) in subsection (i) (as redesignated by paragraph (5) of this section)—

(A) by striking "50" and inserting "65"; and

(B) by striking "503" and inserting "503A"; and

(9) by adding at the end the following:

"(m) ANNUAL REPORT.—The Secretary shall submit to the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and make available to the public on the Department's Web site, an annual report on the university transportation center program under this section detailing the activities of the regional and standard centers during the previous year and how such activities reflect the priorities of the strategic plan required under section 508(a) of title 23.".

SEC. 7022. BUREAU OF TRANSPORTATION STATISTICS.

Section 111 of title 49, United States Code, is amended—

(1) in subsection (c) by striking paragraph (5) and inserting the following:

"(5) TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

"(A) transportation safety across all modes and intermodally;

"(B) the state of good repair of United States transportation infrastructure;

"(C) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g);

"(D) economic efficiency across the entire transportation sector;

"(E) the effects of the transportation system on global and domestic economic competitiveness;

"(F) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

"(G) transportation-related variables that influence the domestic economy and global competiveness;

"(H) economic costs and impacts for passenger travel and freight movement;

"(I) intermodal and multimodal passenger movement; and

"(J) consequences of transportation for the environment.";

(2) by striking subsection (d) and inserting the following:

"(d) ACCESS TO FEDERAL DATA.—In carrying out subsection (c), the Director shall be provided access to all transportation and transportation-related information and data, including safety-related data, held by an agency of the Department of Transportation and, upon written request and subject to any statutory or regulatory restrictions, to all such data held by any other Federal Government agency, that is germane to carrying out subsection (c).";

(3) in subsection (n) by striking "Mass Transit" and inserting "Alternative Transportation"; and

(4) in subsection (o)(2)—

(A) in subparagraph (A) by inserting "and" after the semicolon;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

SEC. 7023. ADMINISTRATIVE AUTHORITY.

Section 112 of title 49, United States Code, is amended by adding at the end the following:

"(f) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 through 2016, the Administrator may expend not more than 1 ½ percent of the amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration to carry out the coordination, evaluation, and oversight of the programs administered by the Administration.

"(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

"(B) Federal laboratories; and

"(C) other Federal agencies.

"(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

"(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

"(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).".

SEC. 7024. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADDITIONAL REPEALS.—Sections 5308, 5309, 5310, 5501, 5506, 5507, 5511, and 5513 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users are repealed.

(b) TABLE OF CONTENTS FOR SAFETEA-LU.—The table of contents for the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is amended by striking the items relating to sections 5303 through 5310, 5501, 5506, 5507, 5511, and 5513.

(c) CONFORMING AMENDMENT.—Section 6010(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (23 U.S.C. 512 note) is amended by striking "subtitle C of title V of this Act" and inserting "section 501 of title 23, United States Code".

TITLE VIII—RAILROADS

Subtitle A—Repeals and Reforms of Intercity Passenger Rail Capital Grant Programs

SEC. 8001. CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS.

Chapter 223 of title 49, United States Code, and the item relating thereto in the table of chapters for subtitle V of such title, are repealed.

SEC. 8002. CONGESTION GRANTS.

Section 24105 of title 49, United States Code, and the item relating thereto in the table of sections for chapter 241 of such title, are repealed.

SEC. 8003. INTERCITY PASSENGER RAIL CAPITAL GRANTS TO STATES.

(a) AMENDMENTS.—Section 24402 of title 49, United States Code, is amended—

(1) in the section heading, by striking "**Capital investment grants to support intercity passenger rail service**" and inserting "**Intercity passenger rail capital grants to States**";

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(4) in subsection (b)(1)(D), as so redesignated by paragraph (3) of this subsection, by striking "that if an applicant has selected the proposed operator of its service competitively, that the applicant provide" and inserting "that the applicant shall select the proposed operator of its service competitively, and that the applicant shall provide";

(5) in subsection (b)(2)(B), as so redesignated by paragraph (3) of this subsection—

(A) by inserting "and" at the end of clause (ii); and

(B) by inserting "and" at the end of clause (iii); and

(C) by striking clauses (iv) and (v);

(6) in subsection (c), as so redesignated by paragraph (3) of this subsection, by striking "subsection (c)(1)(A)" and inserting "subsection (b)(1)(A)";

(7) in subsection (d), as so redesignated by paragraph (3) of this subsection, by striking "subsection (g)" and inserting "subsection (f)";

(8) in subsection (e)(2), as so redesignated by paragraph (3) of this subsection, by striking "subsection (c)" and inserting "subsection (b)";

(9) in subsection (f), as so redesignated by paragraph (3) of this subsection, by striking paragraphs (3) and (4); and

(10) in subsection (g), as so redesignated by paragraph (3) of this subsection, by amending the second sentence to read as follows: "If any amount provided as a grant under this section is not obligated within 3 years after the date on which the State is awarded the grant, such amount shall be rescinded and deposited to the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction and prohibited from use as an offset for other spending increases or revenue reductions.".

(b) CONFORMING AMENDMENT.—The item relating to section 24402 in the table of sections for chapter 244 of title 49, United States Code, is amended to read as follows:

"24402. Intercity passenger rail capital grants to States.".

Subtitle B—Amtrak Reforms

SEC. 8101. AUTHORIZATION FOR AMTRAK OPERATING EXPENSES.

Section 101(a) of the Passenger Rail Investment and Improvement Act of 2008 (Division B of Public Law 110–432, 122 Stat. 4908) is amended—

(1) in paragraph (4), by striking "$616,000,000" and inserting "$466,000,000"; and

(2) in paragraph (5), by striking "$631,000,000" and inserting "$473,250,000".

SEC. 8102. LIMITATIONS ON AMTRAK AUTHORITY.

Section 24305 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(g) LIMITATIONS ON USE OF FEDERAL FUNDS.—

"(1) LIMITATIONS.—Amtrak may not use any Federal funds for the following purposes:

"(A) Hiring or contracting with any outside legal professional for the purpose of filing, litigating, or otherwise pursuing any cause of action in a Federal or State court against a passenger rail service provider.

"(B) Filing, litigating, or otherwise pursuing in any Federal or State court any cause of action against a passenger rail service provider arising from a competitive bid process in which Amtrak and the passenger rail service provider participated.

"(2) DEFINITIONS.—For the purposes of this subsection—

"(A) the term 'outside legal professional' means any individual, corporation, partnership, limited liability corporation, limited liability partnership, or other private entity in the business of providing legal services that is not employed on a full-time basis solely by Amtrak; and

"(B) the term 'passenger rail service provider' means any company, partnership, or other public or private entity that operates passenger rail service or bids to operate passenger rail service in a competitive process.".

SEC. 8103. APPLICABILITY OF LAWS.

(a) TITLE 18 VIOLATIONS.—For purposes of sections 286, 287, 371, 641, 1001, and 1002 of title 18, United States Code, and, with respect to audits conducted by the Amtrak Office of the Inspector General, for purposes of section 1516 of such title, Amtrak and the Amtrak Office of the Inspector General shall be considered to be agencies of the United States Government.

(b) FALSE CLAIMS.—Claims made or presented to Amtrak shall be considered as claims under section 3729(b)(2)(A)(ii) of title 31, United States Code, and statements made or presented to Amtrak shall be considered as statements under section 3729(a)(1)(B) and (G) of title 31, United States Code.

(c) LIMITATION.—Subsections (a) and (b) shall be effective only with respect to a fiscal year for which Amtrak receives a Federal subsidy.

SEC. 8104. INSPECTOR GENERAL OF AMTRAK.

(a) IN GENERAL.—Chapter 243 is amended by inserting after section 24316 the following:

"§ 24317. Inspector General

"(a) INVESTIGATION AUTHORITY.—The Inspector General of Amtrak shall have all authority available to other Inspectors General, as necessary in carrying out the duties specified in the Inspector General Act 1978 (5 U.S.C. App. 3), to investigate any alleged violation of section 286, 287, 371, 641, 1001, or 1002 of title 18, and, with respect to audits conducted by the Amtrak Office of the Inspector General, any violation of section 1516 of such title.

"(b) SERVICES FROM GENERAL SERVICES ADMINISTRATION.—The Inspector General of Amtrak may obtain from the Administrator of General Services, and the Administrator shall provide to the Inspector General, services under sections 502(a) and 602 of title 40, including travel programs.

"(c) QUALIFIED IMMUNITY.—

"(1) IN GENERAL.—An employee of the Amtrak Office of Inspector General shall enjoy the same personal qualified immunity from lawsuit or liability as the employees of other inspectors general that operate under authority of the Inspector General Act of 1978 with respect to the performance of investigative, audit, or inspection functions authorized under that Act that are carried out for the Amtrak Office of Inspector General.

"(2) FEDERAL GOVERNMENT LIABILITY.—No liability of any kind shall attach to or rest upon the United States for any damages from or by any actions of the Amtrak Office of Inspector General, its employees, agents, or representatives.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 243 is amended by inserting after the item relating to section 24316 the following:

"24317. Inspector General.".

SEC. 8105. AMTRAK MANAGEMENT ACCOUNTABILITY.

Section 24310 is amended to read as follows:

"§ 24310. Management accountability

"(a) IN GENERAL.—Promptly after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and again not later than 5 years after the date

of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by the Department of Transportation, and the Inspector General of Amtrak shall complete an overall assessment of the progress made by Amtrak management, in implementing the provisions of the Passenger Rail Investment and Improvement Act of 2008.

"(b) ASSESSMENT.—The management assessment undertaken by the Amtrak Inspector General may include a review of—

"(1) effectiveness in improving annual financial planning;

"(2) effectiveness in implementing improved financial accounting;

"(3) efforts to implement minimum train performance standards;

"(4) progress maximizing revenues, minimizing Federal subsidies, and improving financial results; and

"(5) any other aspect of Amtrak operations the Amtrak Inspector General finds appropriate to review.".

SEC. 8106. AMTRAK FOOD AND BEVERAGE SERVICE.

(a) AUTHORITY.—Section 24305(c)(4) of title 49, United States Code, is amended by striking "only if revenues from the services each year at least equal the cost of providing the services" and inserting "only as provided in subsection (h)".

(b) PROCEDURES.—Section 24305 of title 49, United States Code, is further amended by adding at the end the following new subsection:

"(h) FOOD AND BEVERAGE SERVICE.—

"(1) IN GENERAL.—Except as provided in paragraph (6), food and beverage service may be provided on Amtrak trains only by a bidder selected by the Federal Railroad Administration under paragraph (5). The Federal Railroad Administration may consult with and obtain assistance from the General Services Administration in carrying out this subsection.

"(2) REQUESTS FOR PROPOSALS.—Not later than 60 days after the date of enactment of this subsection, the Federal Railroad Administration shall issue separate requests for proposals for provision of food and beverage service on Amtrak trains on the national rail passenger transportation system for each of subparagraphs (A) through (D) of section 24102(5).

"(3) DEADLINES.—

"(A) SUBMITTAL OF BIDS.—Bids for the provision of food and beverage service on Amtrak trains pursuant to the requests for proposals issued under paragraph (2) shall be submitted to the Federal Railroad Administration not later than 60 days after the issuance of the relevant request for proposals.

"(B) SELECTION OF WINNING BIDS.—The Federal Railroad Administration shall select winning bidders pursuant to paragraph (5) not later than 90 days after the issuance of the relevant request for proposals.

"(4) AMTRAK PARTICIPATION.—Amtrak may participate in the bidding pursuant to a request for proposals issued under paragraph (2).

"(5) SELECTION OF PROVIDERS.—The Federal Railroad Administration shall select for the provision of food and beverage service on Amtrak trains the qualified bidder responding to the request for proposals issued under paragraph (2) whose bid would result in the lowest cost, or the greatest source of revenue, to Amtrak.

"(6) EXEMPTION.—If no qualified bidder responds to the request for proposals issued under paragraph (2), Amtrak, after transmitting to the Federal Railroad Administration and the Congress an explanation of the reasons for the need of an exemption, may request from the Federal Railroad Administration, and the Federal Railroad Administration may grant, an exemption from the limitations under this subsection.

"(7) SUBSIDY FOR NET LOSS.—The Federal Railroad Administration shall provide directly to the entity providing food and beverage service on Amtrak trains any portion of appropriations for Amtrak necessary to cover a net loss resulting from the provision of such service, but only to the extent that such net loss was anticipated in the bid selected.".

SEC. 8107. APPLICATION OF BUY AMERICA TO AMTRAK.

Section 24305(f) of title 49, United States Code, is amended by adding at the end the following new paragraphs:

"(5) The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this title.

"(6) If the Secretary receives a request for an exemption under this subsection, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request. Such a notice shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation. If the Secretary grants an exemption under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the exemption that addresses the public comments received under this paragraph and shall ensure that such justification is published before the exemption takes effect.".

Subtitle C—Project Development and Review

SEC. 8201. PROJECT DEVELOPMENT AND REVIEW.

(a) AMENDMENT.—Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 229—PROJECT DEVELOPMENT AND REVIEW

"Sec.
"22901. Applicability.
"22902. Definitions.
"22903. Efficient environmental reviews for rail project decisionmaking.
"22904. Integration of planning and environmental review.
"22905. Program for eliminating duplication of environmental reviews.
"22906. Railroad corridor preservation.
"22907. Treatment of railroads for historic preservation.
"22908. Categorical exclusion.
"22909. State assumption of responsibility for categorical exclusions.
"22910. Rail project delivery program.
"22911. Exemption in emergencies.

"§ 22901. Applicability

"The provisions of this chapter—

"(1) shall be applicable to any freight or intercity passenger rail capital project that is carried out or planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument;

"(2) shall be broadly construed; and

"(3) may be applied by the Secretary to any class or program of such projects.

"§ 22902. Definitions

"In this chapter, the following definitions apply:

"(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) ENVIRONMENTAL LAW.—The term 'environmental law' includes any law that provides procedural or substantive protection, as applicable, for the natural or built environment with regard to the construction and operation of transportation projects.

"(4) ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing for a rail project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a rail project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(5) FEDERAL ENVIRONMENTAL LAWS.—The term 'Federal environmental laws' means Federal laws governing the review, including through the issuance of permits and other approvals of environmental impacts of, the construction and operation of transportation projects. Such term includes section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), section 106 of the National Historic Preservation Act (16 U.S.C. 470f), and sections 7(a)(2),

9(a)(1)(B), and 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B), 1539(a)(1)(B)).

"(6) FEDERAL LEAD AGENCY.—The term 'Federal lead agency' means the Department of Transportation.

"(7) JOINT LEAD AGENCY.—The term 'joint lead agency' means an agency designated as a joint lead agency as described in paragraph (1) or (2) of section 22903(b).

"(8) LEAD AGENCY.—The term 'lead agency' means the Department of Transportation and, if applicable, any joint lead agency.

"(9) PLANNING PRODUCT.—The term 'planning product' means any decision, analysis, study, or other documented result of an evaluation or decisionmaking process carried out during rail and transportation planning.

"(10) PROJECT SPONSOR.—The term 'project sponsor' means the State agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a rail project.

"(11) RAIL PROJECT.—The term 'rail project' means any freight or intercity passenger rail capital project that is carried out or is planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(13) STATE.—The term 'State' has the meaning given that term in section 22701(3).

"(14) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for one or more modes of transportation.

"§ 22903. Efficient environmental reviews for rail project decisionmaking

"(a) APPLICABILITY.—

"(1) IN GENERAL.—The project development procedures in this section are applicable to all rail projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 and may be applied, to the extent determined appropriate by the Secretary, to other rail projects for which an environmental document is prepared as part of an environmental review process.

"(2) FLEXIBILITY.—Any authorities granted in this section may be exercised, and any requirements established in this section may be satisfied, for a rail project, class of projects, or program of rail projects.

"(3) FUNDING THRESHOLD.—The Secretary's approval of a rail project involving Federal funds shall not be considered a Federal action for the purposes of the National Environmental Policy Act of 1969 if the Federal funding share—

"(A) constitutes 15 percent or less of the total estimated project costs; or

"(B) is less than $10,000,000.

"(4) PROGRAMMATIC COMPLIANCE.—At the request of a State, the Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with respect to environmental programs and permits (in lieu of project-by-project reviews).

"(b) LEAD AGENCIES.—

"(1) IN GENERAL.—If the rail project requires approval from more than one modal administration within the Department of Transportation, the Secretary shall designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.

"(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969.

"(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity applying to receive or receiving Federal funds for the rail project shall serve as a joint lead agency with the Department of Transportation for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

"(4) ENSURING COMPLIANCE.—The Secretary shall ensure that a project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by

the project sponsor in accordance with this subsection, and that such document is appropriately supplemented if rail project changes become necessary.

"(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency in making any approval of a rail project as the document required to be completed under the National Environmental Policy Act of 1969.

"(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any rail project, the lead agency shall have authority and responsibility—

"(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the rail project; and

"(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 is completed in accordance with this section and other applicable Federal law.

"(c) PARTICIPATING AGENCIES.—

"(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

"(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a rail project, any other Federal and non-Federal agencies that may have an interest in the rail project, and shall invite such agencies to become participating agencies in the environmental review process for the rail project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

"(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a rail project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

"(A) has no jurisdiction or authority with respect to the rail project;

"(B) has no expertise or information relevant to the rail project; and

"(C) does not intend to submit comments on the rail project.

"(4) EFFECT OF DESIGNATION.—

"(A) REQUIREMENT.—A participating agency shall comply with the requirements of this section and any schedule established under this section.

"(B) IMPLICATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

"(i) supports a proposed rail project; or

"(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the rail project.

"(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a 'cooperating agency' under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

"(6) DESIGNATIONS FOR CATEGORIES OF RAIL PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a rail project, class of rail projects, or program of rail projects.

"(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

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

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

"(d) RAIL PROJECT INITIATION.—The project sponsor shall notify the Secretary of the type of work, length, and general location of the proposed rail project, together with a statement of any Federal approvals anticipated to be necessary for the proposed rail project, for the purpose of informing the Secretary that the environmental review process should be initiated. The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for publication in the Federal Register announcing the preparation of an environmental impact statement for the rail project.

"(e) PURPOSE AND NEED.—

"(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a rail project.

"(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the rail project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the rail project.

"(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

"(A) achieving a transportation objective identified in an applicable rail or transportation plan;

"(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans;

"(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies; and

"(D) serving the purpose for which the applicable grant, contract, loan, or other financing program was established.

"(4) ALTERNATIVES ANALYSIS.—

"(A) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a rail project.

"(B) RANGE OF ALTERNATIVES.—

"(i) IN GENERAL.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the rail project.

"(ii) RESTRICTION.—A Federal agency may not require the evaluation of any alternative that was evaluated, but not adopted—

"(I) in any prior State or Federal environmental document with regard to the applicable transportation or rail plan or program; or

"(II) after the preparation of a programmatic or tiered environmental document that evaluated alternatives to the rail project.

"(iii) LEGAL SUFFICIENCY.—The evaluation of the range of alternatives shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

"(C) METHODOLOGIES.—

"(i) IN GENERAL.—The lead agency also shall determine, after consultation with participating agencies as part of the scoping process, the methodologies to be used and the level of detail required in the analysis of each alternative for a rail project.

"(ii) COMMENTS.—Each participating agency shall limit comments on such methodologies to those issues that are within the authority and expertise of such participating agency.

"(iii) STUDIES.—The lead agency may not conduct studies proposed by any participating agency that are not within the authority or expertise of such participating agency.

"(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a rail project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

"(E) LIMITATIONS ON THE EVALUATION OF IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL DOCUMENTS.—

"(i) IN GENERAL.—The lead agency may not reevaluate, and a Federal agency may not require the reevaluation of, cumulative impacts or growth-inducing impacts where such impacts were previously evaluated in—

"(I) a rail transportation plan or program;

"(II) a prior environmental document approved by the Secretary; or

"(III) a prior State environmental document approved pursuant to a State law that is substantially equivalent to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

"(ii) LEGAL SUFFICIENCY.—The evaluation of cumulative impacts and growth inducing impacts shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

"(5) EFFECTIVE DECISIONMAKING.—

"(A) CONCURRENCE.—At the discretion of the lead agency, a participating agency shall be presumed to concur in the determinations made by the lead agency under this subsection unless the participating agency submits an objection to the lead agency in writing within 30 days after receiving notice of the lead agency's determination and specifies the statutory basis for the objection.

"(B) ADOPTION OF DETERMINATION.—If the participating agency concurs or does not object within the 30-day period, the participating agency shall adopt the lead agency's determination for purposes of any reviews, approvals, or other actions taken by the participating agency as part of the environmental review process for the rail project.

"(f) COORDINATION AND SCHEDULING.—

"(1) COORDINATION PLAN.—

"(A) IN GENERAL.—The lead agency shall establish a rail plan for coordinating public and agency participation in and comment on the environmental review process for a rail project, category of rail projects, or program of rail projects. The coordination plan may be incorporated into a memorandum of understanding.

"(B) SCHEDULE.—

"(i) IN GENERAL.—The lead agency may establish as part of the coordination plan, after consultation with each participating agency for the rail project and with each State in which the rail project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the rail project.

"(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

"(I) the responsibilities of participating agencies under applicable laws;

"(II) resources available to the cooperating agencies;

"(III) overall size and complexity of the rail project;

"(IV) the overall schedule for and cost of the rail project; and

"(V) the sensitivity of the natural and historic resources that could be affected by the rail project.

"(C) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under Federal law.

"(D) MODIFICATION.—The lead agency may—

"(i) lengthen a schedule established under subparagraph (B) for good cause; and

"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

"(E) DISSEMINATION.—A copy of a schedule established under subparagraph (B), and of any modifications to the schedule, shall be—

"(i) provided to all participating agencies and to the State transportation department of each State in which the rail project is located (and, if the State is not the project sponsor, to the project sponsor); and

"(ii) made available to the public.

"(2) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a rail project:

"(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless—

"(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

"(ii) the deadline is extended by the lead agency for good cause.

"(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

"(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

"(ii) the deadline is extended by the lead agency for good cause.

"(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

"(A) PRIOR APPROVAL DEADLINE.—If a participating agency is required to make a determination regarding or otherwise approve or disapprove the rail project prior to the record of decision or finding of no significant impact of

the lead agency, such participating agency shall make such determination or approval no later than 30 days after the lead agency publishes notice of the availability of a final environmental impact statement or other final environmental document, or no later than such other date that is otherwise required by law, whichever occurs first.

"(B) OTHER DEADLINES.—With regard to any determination or approval of a participating agency that is not subject to subparagraph (A), each participating agency shall make any required determination regarding or otherwise approve or disapprove the rail project no later than 90 days after the date that the lead agency approves the record of decision or finding of no significant impact for the rail project, or not later than such other date that is otherwise required by law, whichever occurs first.

"(C) DEEMED APPROVED.—In the event that any participating agency fails to make a determination or approve or disapprove the rail project within the applicable deadline described in subparagraphs (A) and (B), the rail project shall be deemed approved by such participating agency and such approval shall be deemed to comply with the applicable requirements of Federal law.

"(D) JUDICIAL REVIEW.—

"(i) IN GENERAL.—An approval of a rail project under subparagraph (C) shall not be subject to judicial review.

"(ii) WRITTEN FINDING.—The Secretary may issue a written finding verifying the approval made in accordance with this paragraph.

"(g) ISSUE IDENTIFICATION AND RESOLUTION.—

"(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the rail project under applicable laws.

"(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the rail project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

"(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the rail project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the rail project.

"(4) ISSUE RESOLUTION.—

"(A) MEETING OF PARTICIPATING AGENCIES.—At any time upon request of a project sponsor or the Governor of a State in which the rail project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting was requested by the Governor) to resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the rail project under applicable laws.

"(B) NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.—If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all participating agencies, the project sponsor, the Governor, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality, and shall publish such notification in the Federal Register.

"(C) RESOLUTION FINAL.—

"(i) IN GENERAL.—The lead agency and participating agencies may not reconsider the resolution of any issue agreed to by the relevant agencies in a meeting under subparagraph (A).

"(ii) COMPLIANCE WITH APPLICABLE LAW.—Any such resolution shall be deemed to comply with applicable law notwithstanding that the agencies agreed to such resolution prior to the approval of the environmental document.

"(h) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—

"(1) IN GENERAL.—The lead agency in the environmental review process for a rail project, in order to reduce paperwork and expedite decisionmaking, shall prepare a condensed final environmental impact statement.

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

"(A) an incorporation by reference of the draft environmental impact statement;

"(B) any updates to specific pages or sections of the draft environmental impact statement as appropriate; and

"(C) responses to comments on the draft environmental impact statement and copies of the comments.

"(3) TIMING OF DECISION.—Notwithstanding any other provision of law, in conducting the environmental review process for a rail project, the lead agency shall combine a final environmental impact statement and a record of decision for the rail project into a single document if—

"(A) the alternative approved in the record of decision is either a preferred alternative that was identified in the draft environmental impact statement or is a modification of such preferred alternative that was developed in response to comments on the draft environmental impact statement; and

"(B) the Secretary determines that the lead agency, participating agency, or the project sponsor has committed to implement the measures applicable to the approved alternative that are identified in the final environmental impact statement.

"(i) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND RE-EVALUATION.—

"(1) SUPPLEMENTAL ENVIRONMENTAL REVIEW.—After the approval of a record of decision or finding of no significant impact with regard to a rail project, an agency may not require the preparation of a subsequent environmental document for such rail project unless the lead agency determines that—

"(A) changes to the rail project will result in new significant impacts that were not evaluated in the environmental document; or

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

"(2) RE-EVALUATIONS.—The Secretary may only require the re-evaluation of a document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

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

"(B) more than 5 years has elapsed since the Secretary's prior approval of the rail project or authorization of rail project funding.

"(3) CHANGE TO RECORD OF DECISIONS.—After the approval of a record of decision, the Secretary may not require the record of decision to be changed based solely because of a change in the fiscal circumstances surrounding the rail project.

"(j) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review processes.

"(k) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

"(1) IN GENERAL.—For a rail project that is subject to the environmental review process established under this section and for which funds are made available to a State under funding programs administered by the Federal Railroad Administration, the Secretary may approve a request by the State to provide such funds to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the rail projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation or rail project planning and delivery for rail projects in that State.

"(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

"(3) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

"(4) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

"(l) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary, by regulation, shall—

"(A) implement this section; and

"(B) establish methodologies and procedures for evaluating the environmental impacts, including cumulative impacts and growth-inducing impacts, of rail projects subject to this section.

"(2) COMPLIANCE WITH APPLICABLE LAW.—Any environmental document that utilizes the methodologies and procedures established under this subsection shall be deemed to comply with the applicable requirements of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or its implementing regulations; or

"(B) any other Federal environmental statute applicable to rail projects.

"(m) LIMITATIONS ON CLAIMS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a rail project shall be barred unless it is filed within 90 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

"(2) NEW INFORMATION.—The preparation of a supplemental environmental impact statement or other environmental document when required by this section shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of publication of a notice in the Federal Register announcing such action.

"(n) LIMITATIONS ON JUDICIAL RELIEF.—Notwithstanding any other provision of law, the following limitations shall apply to actions brought before a court in connection with a rail project under this section:

"(1) Venue for any action shall be where the rail project is located.

"(2) A specific property interest impacted by the rail project in question must exist in order to have standing to bring an action.

"(3) No action may be commenced by any person alleging a violation of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5 and 7 of title 5, or any other Federal environmental law if such Federal law is identified in the draft environmental impact statement, unless such person provided written notice to the lead agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on the draft environmental impact statement; or

"(B) any other law with regard to the rail project unless such person provided written notice to the applicable approving agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on such agency approval.

"(4) Elected or appointed officials working for the Federal Government or a State government may not be named in their individual capacities in an action if they are acting within the scope of their official duties.

"§ 22904. Integration of planning and environmental review

"(a) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to the conditions set forth in subsection (c), the Federal lead agency for a rail project, at the request of the project sponsors, may adopt and use a planning product in proceedings relating to any class of action in the environmental review process of the rail project.

"(2) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

"(3) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product shall be made at the time the lead agencies decide the appropriate scope of environmental review for the rail project.

"(b) APPLICABILITY.—

"(1) PLANNING DECISIONS.—Planning decisions that may be adopted pursuant to this section include—

"(A) a purpose and need or goals and objectives statement for the rail project, including with respect to whether private financial assistance or other special financial measures are necessary to implement the rail project;

"(B) a decision with respect to rail project location;

"(C) a decision with respect to the elimination of unreasonable alternatives and the selection of the range of reasonable alternatives for detailed study during the environmental review process;

"(D) a basic description of the environmental setting;

"(E) a decision with respect to methodologies for analysis; and

"(F) identifications of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with Federal, State, local, and tribal resource agencies, determines are most effectively addressed at a regional or national program level, including—

"(i) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation and rail investments on environmental resources, including regional ecosystem and water resources; and

"(ii) potential mitigation activities, locations, and investments.

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

"(A) freight and passenger rail needs and demands;

"(B) regional development and growth;

"(C) local land use, growth management, and development;

"(D) population and employment;

"(E) natural and built environmental conditions;

"(F) environmental resources and environmentally sensitive areas;

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

"(H) mitigation needs for a proposed action, or programmatic level mitigation, for potential effects that the Federal lead agency determines are most effectively addressed at a regional or national program level.

"(c) CONDITIONS.—Adoption and use of a planning product under this section is subject to a determination by the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, that the following conditions have been met:

"(1) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

"(2) The planning process included broad consideration of freight and passenger rail needs and potential effects.

"(3) During the planning process, notice was provided, to the extent required by applicable law, through publication or other means to Federal, State, and local government agencies and tribal governments that might have an interest in the proposed rail project, and to members of the general public, of the planning products that the planning process might produce and that might be relied on during the environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

"(4) Prior to determining the scope of environmental review for the rail project, the joint lead agencies have made documentation relating to the planning product available to Federal, State, and local governmental agencies and tribal governments that may have an interest in the proposed action, and to members of the general public.

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

"(6) The planning product is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

"(7) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

"(8) The planning product is appropriate for adoption and use in the environmental review process for the rail project.

"(d) EFFECT OF ADOPTION.—Notwithstanding any other provision of law, any planning product adopted by the Federal lead agency in accordance with this section shall not be reconsidered or made the subject of additional interagency consultation during the environmental review process of the rail project unless the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate,

determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the adopted planning product. Any planning product adopted by the Federal lead agency in accordance with this section may be relied upon and used by other Federal agencies in carrying out reviews of the rail project.

"(e) RULE OF CONSTRUCTION.—This section may not be construed to make the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to the transportation planning processes conducted under chapters 52 and 227 of this title, section 211 of the Passenger Rail Investment and Improvement Act of 2008, or section 26101 of this title. Initiation of the National Environmental Policy Act of 1969 process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the National Environmental Policy Act of 1969 process. This section may not be construed to affect the use of planning products in the National Environmental Policy Act of 1969 process pursuant to other authorities under law or to restrict the initiation of the National Environmental Policy Act of 1969 process during planning.

"§ 22905. Program for eliminating duplication of environmental reviews

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of rail projects. Under this program, a State may use State laws and procedures to conduct reviews and make approvals in lieu of Federal environmental laws and regulations, consistent with the provisions of this section.

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

"(3) SCOPE OF ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.—For purposes of this section, alternative environmental review and approval procedures may include one or more of the following:

"(A) Substitution of one or more State environmental laws for one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State environmental laws provide environmental protection and opportunities for public involvement that are substantially equivalent to the applicable Federal environmental laws.

"(B) Substitution of one or more State regulations for Federal regulations implementing one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State regulations provide environmental protection and opportunities for public involvement that are substantially equivalent to the Federal regulations.

"(b) APPLICATION.—To participate in the program, a State shall submit to the Secretary an application containing such information as the Secretary may require, including—

"(1) a full and complete description of the proposed alternative environmental review and approval procedures of the State;

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

"(3) evidence of having sought, received, and addressed comments on the proposed application from the public and appropriate Federal environmental resource agencies.

"(c) REVIEW OF APPLICATION.—The Secretary shall—

"(1) review an application submitted under subsection (b);

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

"(3) transmit to the State notice of the approval or disapproval, together with a statement of the reasons for the approval or disapproval.

"(d) APPROVAL OF STATE PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall approve each such application if the Secretary finds that the proposed alternative environmental review and approval procedures of the State are substantially equivalent to the applicable Federal environmental laws and Federal regulations.

"(2) EXCLUSION.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall not apply to any decision by the Secretary to approve or disapprove any application submitted pursuant to this section.

"(e) COMPLIANCE WITH PERMITS.—Compliance with a permit or other approval of a rail project issued pursuant to a program approved by the Secretary under this

section shall be deemed compliance with the Federal laws and regulations identified in the program approved by the Secretary pursuant to this section.

"(f) REVIEW AND TERMINATION.—

"(1) REVIEW.—All State alternative environmental review and approval procedures approved under this section shall be reviewed by the Secretary not less than once every 5 years.

"(2) PUBLIC NOTICE AND COMMENT.—In conducting the review process under paragraph (1), the Secretary shall provide notice and an opportunity for public comment.

"(3) EXTENSIONS AND TERMINATIONS.—At the conclusion of the review process, the Secretary may extend the State alternative environmental review and approval procedures for an additional 5-year period or terminate the State program.

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

"§ 22906. Railroad corridor preservation

"(a) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way and adjacent real property interests before the completion of the environmental reviews for any rail project that may use the right-of-way and the real property interests if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(b) ENVIRONMENTAL REVIEWS.—Railroad right-of-way and real property interests acquired under this section may not be developed in anticipation of final approval of the rail project until all required environmental reviews for the rail project have been completed.

"§ 22907. Treatment of railroads for historic preservation

"Except for a railroad operated as a historic site with the purpose of preserving the railroad for listing in the National Register of Historic Places, a railroad subject to the safety regulation jurisdiction of the Federal Railroad Administration, or any portion of such railroad, or any property in current or former use by a railroad and intended to be restored to use by a railroad, shall not be considered a historic site, district, object, structure, or property of national, State, or local significance for purposes of section 303 of this title or section 106 or 110 of the National Historic Preservation Act (16 U.S.C. 470f or 470h–2) by virtue of being listed as a resource in, or eligible for listing in, the National Register of Historic Places. At the discretion of the Secretary, with the advice of the Department of the Interior, significant individual elements of a railroad such as depots and major bridges would be subject to such section 106 or 110.

"§ 22908. Categorical exclusion

"(a) TREATMENT OF RAIL PROJECTS.—The Secretary shall, for the purposes of this title, treat a rail project as a class of action categorically excluded from the requirements relating to the environmental assessment process or the preparation of environmental impact statements under the standards promulgated by the Council on Environmental Quality (40 C.F.R. 1508.4), if such rail project—

"(1) replaces or maintains existing railroad equipment; track and bridge structures; electrification, communication, signaling, or security facilities; stations; maintenance-of-way and maintenance-of-equipment bases; or other existing railroad-related facilities;

"(2) is a rail line addition of any length within an existing right of way;

"(3) is related to the implementation of positive train control systems, as required by section 20157 of title 49, United States Code; or

"(4) replaces, reconstructs, or rehabilitates an existing railroad bridge, including replacement of a culvert, that does not require the acquisition of a significant amount of right-of-way.

"(b) ADDITIONAL ACTIONS.—If a rail project qualifies for categorical exclusion under this section except for additional actions that do not fit in the relevant category, the rail project may be categorically excluded if the Secretary determines, based on information provided by the project sponsor, that the additional actions meet the standards for categorical exclusion promulgated by the Council on Environmental Quality (40 C.F.R. 1508.4).

"(c) OTHER OPERATING ADMINISTRATIONS' CATEGORICAL EXCLUSIONS.—If a rail project would be eligible for categorical exclusion from the requirements relating to the environmental assessment process or the preparation of environmental impact statements by another operating administration of the Department of Transpor-

tation, the Federal Railroad Administration may categorically exclude the rail project.

"§ 22909. State assumption of responsibility for categorical exclusions

"(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

"(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

"(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and for any type of activity for which a categorical exclusion classification is appropriate.

"(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego project delivery methods that are otherwise permissible for rail projects.

"(b) OTHER APPLICABLE FEDERAL LAWS.—

"(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal environmental law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

"(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

"(c) MEMORANDA OF UNDERSTANDING.—

"(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

"(2) TERM.—A memorandum of understanding—

"(A) shall have a term of not more than 3 years; and

"(B) shall be renewable.

"(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

"(4) MONITORING.—The Secretary shall—

"(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

"(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

"(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

"(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.

"§ 22910. Rail project delivery program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall carry out a rail project delivery program (referred to in this section as the 'program').

"(2) ASSUMPTION OF RESPONSIBILITY.—

"(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form

of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more rail projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

"(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific rail project; but

"(ii) the Secretary may not assign any responsibility imposed on the Secretary by chapter 227 of this title.

"(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

"(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

"(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a rail project.

"(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for rail projects.

"(b) STATE PARTICIPATION.—

"(1) PARTICIPATING STATES.—All States are eligible to participate in the program.

"(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

"(A) the rail projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

"(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

"(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

"(3) PUBLIC NOTICE.—

"(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

"(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

"(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

"(A) the regulatory requirements under paragraph (2) have been met;

"(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

"(C) the head of the State agency having primary jurisdiction over rail matters enters into a written agreement with the Secretary described in subsection (c).

"(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

"(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

"(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for rail construction;

"(2) be in such form as the Secretary may prescribe;

"(3) provide that the State—

"(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

"(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

"(C) certifies that State laws (including regulations) are in effect that—

"(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

"(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

"(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed;

"(4) shall have a term of not more than 5 years; and

"(5) shall be renewable.

"(d) JURISDICTION.—

"(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

"(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

"(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

"(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (j).

"(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

"(g) AUDITS.—

"(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

"(A) semiannual audits during each of the first 2 years of State participation; and

"(B) annual audits during each of the third and fourth years of State participation.

"(2) PUBLIC AVAILABILITY AND COMMENT.—

"(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

"(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

"(h) MONITORING.—After the fourth year of participation of the State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

"(i) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

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

"(1) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(2) the Secretary provides to the State—

"(A) notification of the determination of noncompliance; and

"(B) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(3) the State, after the notification and period provided under paragraph (2), fails to take satisfactory corrective action, as determined by Secretary.

"§ 22911. Exemption in emergencies

"If any railroad, track, bridge, or other facility is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121), is proposed to be reconstructed with Federal funds, and is reconstructed in the same location with the same capacity, dimensions, and design as before the emergency, then that

reconstruction project shall be exempt from any further environmental reviews, approvals, licensing, and permit requirements under—

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

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

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

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

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

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

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

"(8) Executive Order 11990 (42 U.S.C. 4321 note; relating to the protection of wetlands); and

"(9) any Federal law (including regulations) requiring no net loss of wetlands.".

(b) CONFORMING AMENDMENT.—The chapter analysis for subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 227 the following:

"229. Project development and review ..... 22901".

Subtitle D—Railroad Rehabilitation and Improvement Financing

SEC. 8301. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.

(a) PURPOSE AND REGULATIONS.—

(1) PURPOSE.—The amendments made by this section are intended to encourage a higher level of participation in the railroad rehabilitation and improvement financing program under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 and to make the loan process under that program faster, more efficient, and more predictable.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the amendments made by this section in a manner that achieves the purpose stated in paragraph (1).

(b) HIGH-SPEED RAIL.—Section 502(b)(1)(C) of such Act (45 U.S.C. 822(b)(1)(C)) is amended by inserting ", including high-speed rail (as defined in section 26105(2) of title 49, United States Code) facilities" after "railroad facilities".

(c) PRIVATE INSURANCE.—Section 502(f)(1) of such Act (45 U.S.C. 822(f)(1)) is amended—

(1) by striking "under this section a commitment" and inserting "under this section private insurance, including bond insurance, or any other commitment"; and

(2) by inserting "or private insurance, including bond insurance," after "authority and credit risk premiums".

(d) FINANCING OF CREDIT RISK PREMIUM.—Section 502(f)(3) of such Act (45 U.S.C. 822(f)(3)) is amended by inserting ", or, at the discretion of the Secretary, in a series of payments over the term of the loan. If private insurance, including bond insurance, is used, the policy premium shall be paid before the loan is disbursed" after "of loan amounts".

(e) COLLATERAL.—

(1) FULL VALUE.—Section 502(h)(2) of such Act (45 U.S.C. 822(h)(2)) is amended by inserting "Such collateral shall be valued at 100 percent of the liquidated asset valuation, or going concern valuation when applicable." after "operation of the project.".

(2) DEDICATED REVENUE AND SUBORDINATION.—Such section 502(h)(2) is further amended—

(A) by striking "(2) The Secretary" and inserting "(2)(A) The Secretary";

(B) by adding at the end of subparagraph (A) the following: "The Secretary may subordinate rights of the Secretary under any provision of title 49 or title 23 of the United States Code, to the rights of the Secretary under this section and section 503."; and

(C) by adding at the end the following new subparagraph:

"(B) In the case of an applicant that is a State, an Interstate compact, a local government authority as defined in section 5302 of title 49, United States Code, or a high-speed rail system as defined in section 26105 of title 49, United States Code, the Secretary shall, for purposes of making a finding under subsection (g)(4), accept

the net present value on a future stream of State or local subsidy income or dedicated revenue as collateral offered to secure the loan.".

(f) OFFICE OF MANAGEMENT AND BUDGET.—Section 502(i) of such Act (45 U.S.C. 822(i)) is amended by inserting "In order to enable compliance with such time limit, the Office of Management and Budget shall take any actions required with respect to the application within such 90-day period." after "disapprove the application.".

(g) COMPLETION OF APPLICATION.—Section 502(i) of such Act (45 U.S.C. 822(i)) is further amended—

(1) by striking "DISAPPROVAL.—Not later than 90 days after receiving" and inserting "DISAPPROVAL.—

"(1) IN GENERAL.—Not later than 90 days after an application is determined pursuant to paragraph (2) to be"; and

(2) by adding at the end the following new paragraph:

"(2) COMPLETION OF APPLICATION.—The Secretary shall establish procedures for making a determination not later than 45 days after submission of an application under this section whether the application is complete. Such procedures shall—

"(A) provide for a checklist of the required components of a complete application;

"(B) provide that an independent financial analyst be assigned within 45 days of submittal to review the application;

"(C) require the Secretary to provide to the applicant a description of the specific components of the application that remain incomplete or unsatisfactory if an application is determined to be incomplete; and

"(D) permit reapplication without prejudice for applications determined to be incomplete or unsatisfactory.".

(h) REPAYMENT DEFERRAL.—Section 502(j) of such Act (45 U.S.C. 822(j)) is amended by adding at the end the following new paragraph:

"(3) TREATMENT OF COSTS ASSOCIATED WITH DEFERRAL.—Any additional costs associated with a deferred repayment schedule under paragraph (1) may be financed over the remaining term of the loan beginning at the time the payments begin, or may be included in the credit risk premium determined under subsection (f)(2).".

(i) POSITIVE TRAIN CONTROL.—

(1) PRIORITY.—Section 502(c)(1) of such Act (45 U.S.C. 822(c)(1)) is amended by inserting ", including projects for the installation of positive train control systems as defined in section 20157(i) of title 49, United States Code" after "public safety".

(2) COLLATERAL.—Section 502(h)(2) of such Act (45 U.S.C. 822(h)(2)), as amended by this section, is further amended by adding at the end the following new subparagraph:

"(C) For purposes of making a finding under subsection (g)(4) with respect to an application for a project for the installation of positive train control systems, the collateral value of that asset shall be deemed to be equal to the total cost of the labor and materials associated with installing the positive train control systems.".

(j) REPORT TO CONGRESS.—Section 502 of such Act (45 U.S.C. 822) is amended by adding at the end the following new subsection:

"(k) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and annually thereafter, the Secretary shall transmit to the Congress a report on the program under this section that summarizes the number of loans approved and disapproved by the Secretary during the previous year. Such report shall not disclose the identity of loan or loan guarantee recipients. The report shall describe—

"(1) the number of preapplication meetings with potential applicants;

"(2) the number of applications received and determined complete under subsection (i)(2), including the requested loan amounts;

"(3) the dates of receipt of applications;

"(4) the dates applications were determined complete under subsection (i)(2);

"(5) the number of applications determined incomplete under subsection (i)(2);

"(6) the final decision dates for both approvals and denials of applications;

"(7) the number of applications withdrawn from consideration; and

"(8) the annual loan portfolio asset quality.".

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 502 of such Act (45 U.S.C. 822) is amended by adding at the end the following new subsection:

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out subsections (f)(3) and (j)(3), $50,000,000 for fiscal year 2013.".

Subtitle E—Positive Train Control

SEC. 8401. POSITIVE TRAIN CONTROL.

(a) RAILROAD SAFETY RISK REDUCTION PROGRAM.—Section 20156(e)(4) of title 49, United States Code, is amended to read as follows:

"(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that each railroad carrier's technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule. Nothing in this section shall be construed as requiring the installation of positive train control on railroad tracks if positive train control is not required on those tracks by section 20157 and positive train control on those tracks is not chosen by the railroad as a technology to be implemented under this section.".

(b) IMPLEMENTATION OF POSITIVE TRAIN CONTROL SYSTEMS.—Section 20157 of title 49, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "December 31, 2015" and inserting "December 31, 2020";

(B) by inserting "and" after the semicolon at the end of subparagraph (A);

(C) by striking "; and" at the end of subparagraph (B) and inserting "on or after December 31, 2020."; and

(D) by striking subparagraph (C);

(2) by adding at the end of subsection (a) the following new paragraph:

"(3) ALTERNATIVE STRATEGY.—A plan submitted under this subsection may provide that, in lieu of installing positive train control on all or some of the tracks on which positive train control is otherwise required to be installed pursuant to paragraph (1)(B), the railroad carrier will utilize an alternative risk reduction strategy that would reduce the risk of release of poison- or toxic-by-inhalation hazardous materials to the same extent the risk of a release of poison- or toxic-by-inhalation hazardous materials would be reduced if positive train control were installed on those tracks. An alternative risk reduction strategy may only be used pursuant to this paragraph on tracks for which positive train control is not required pursuant to paragraph (1)(A).";

(3) in subsection (c)—

(A) by striking "APPROVAL.—Not later than 90 days after the Secretary receives a plan" and inserting "APPROVAL.—

"(1) IN GENERAL.—Not later than 90 days after the Secretary receives a plan or revision of a plan under this section"; and

(B) by adding at the end the following new paragraph:

"(2) REVISION OF PLAN.—A railroad carrier may revise a plan under this section as necessary to reflect rail lines that are added or removed, or to reflect alternative risk reduction strategies proposed pursuant to subsection (a)(3).";

(4) in subsection (d)—

(A) by striking "December 31, 2012" and inserting "December 31, 2015"; and

(B) by inserting "and alternative risk reduction strategies. Such report shall include any recommendations for improving the ability of rail carriers to implement positive train control systems or alternative risk reduction strategies in accordance with this section" after "positive train control systems";

(5) in subsection (e), by inserting "and alternative risk reduction strategies" after "positive train control"; and

(6) in subsection (f), by striking "or section 20156" the first place it appears.

Subtitle F—Regulatory Reform

SEC. 8501. FEDERAL RAILROAD ADMINISTRATION REGULATIONS.

(a) AMENDMENT.—Section 103 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(l) IMPROVING REGULATION AND REGULATORY REVIEW.—

"(1) IN GENERAL.—Before any final regulation within the jurisdiction of the Administration is issued, the Administrator shall make all preliminary and final determinations based on evidence and consider, in addition to other applicable considerations, the following:

"(A) The legal authority under which a rule may be proposed, including whether a rulemaking is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rulemaking.

"(B) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.

"(C) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency's jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.

"(D) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.

"(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

"(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

"(G) Means to increase the cost-effectiveness of any Federal response.

"(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

"(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

"(i) the alternative of no Federal response;

"(ii) amending or rescinding existing rules;

"(iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

"(iv) potential responses that—

"(I) specify performance objectives rather than conduct or manners of compliance;

"(II) establish economic incentives to encourage desired behavior;

"(III) provide information upon which choices can be made by the public; or

"(IV) incorporate other innovative alternatives rather than agency actions that specify conduct or manners of compliance.

"(2) PUBLIC COMMENT.—The Administrator shall solicit and take into consideration public comment on the subjects described in subparagraphs (A) through (I) of paragraph (1) before issuance of a final regulation described in paragraph (1).

"(3) AGENCY STATEMENTS.—

"(A) IN GENERAL.—The Administrator shall follow applicable rulemaking procedures under section 553 of title 5 before issuing a binding obligation applicable to recipients of Federal assistance.

"(B) BINDING OBLIGATION DEFINED.—In this paragraph, the term 'binding obligation' means a substantive policy statement, rule, or guidance document issued by the Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.".

(b) EFFECTIVE DATE.—Paragraphs (1) and (2) of the subsection (l) added by the amendment made by subsection (a) of this section shall be effective only with respect to regulations with respect to which no notice of proposed rulemaking has been issued before the date of enactment of this Act.

Subtitle G—Technical Corrections

SEC. 8601. MISCELLANEOUS CORRECTIONS, REVISIONS, AND REPEALS.

(a) TECHNICAL CORRECTIONS TO PROVISIONS OF THE UNITED STATES CODE ENACTED IN, OR AMENDED BY, THE RAIL SAFETY IMPROVEMENT ACT OF 2008.—(1) Section 1139 of title 49, United States Code, is amended—

(A) in subsection (a)(1) by striking "phone number" and inserting "telephone number";

(B) in subsection (a)(2) by striking "post trauma communication with families" and inserting "post-trauma communication with families"; and

(C) in subsection (j)(2) by striking "railroad passenger accident" and inserting "rail passenger accident".

(2) Section 10909 of title 49, United States Code, is amended—

(A) in subsection (b), by striking "Clean Railroad Act of 2008," and inserting "Clean Railroads Act of 2008,"; and

(B) in subsection (e), by striking "Upon the granting of petition from the State" and inserting "Upon the granting of a petition from the State".

(3) Section 20116 of title 49, United States Code, is amended—

(A) by inserting "(1)" after "unless"; and

(B) by inserting "(2)" before "the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part.".

(4) Section 20120(a) of title 49, United States Code, is amended—

(A) by striking "website" and inserting "Web site";

(B) in paragraph (1), by striking "accident and incidence reporting" and inserting "accident and incident reporting";

(C) in paragraph (2)(G), by inserting "and" at the end; and

(D) in paragraph (5)(B), by striking "Administrative Hearing Officer or Administrative Law Judge" and inserting "administrative hearing officer or administrative law judge".

(5) Section 20156 of title 49, United States Code, is amended—

(A) in subsection (c), by inserting a comma after "In developing its railroad safety risk reduction program"; and

(B) in subsection (g)(1), by inserting a comma after "good faith" and by striking "non-profit" and inserting "nonprofit".

(6) Section 20157(a)(1)(B) of title 49, United States Code, is amended by striking "parts 171.8, 173.115, and 173.132" and inserting "sections 171.8, 173.115, and 173.132".

(7) Section 20159 of title 49, United States Code, is amended by striking "the Secretary" and inserting "the Secretary of Transportation".

(8) Section 20160 of title 49, United States Code, is amended—

(A) in subsection (a)(1), by striking "or with" and inserting "with"; and

(B) in subsection (b)(1)(A), by striking "or with" and inserting "with".

(9) Section 20162(a)(3) of title 49, United States Code, is amended by striking "railroad compliance with Federal standards" and inserting "railroad carrier compliance with Federal standards".

(10) Section 20164(a) of title 49, United States Code, is amended by striking "after enactment of the Railroad Safety Enhancement Act of 2008" and inserting "after the enactment of the Rail Safety Improvement Act of 2008".

(11) Section 22106(b) of title 49, United States Code, is amended by striking "interest thereof" and inserting "interest thereon".

(12) The item relating to section 24316 in the chapter analysis for chapter 243 of title 49, United States Code, is amended by striking "to assist families of passengers" and inserting "to address needs of families of passengers".

(b) TECHNICAL CORRECTIONS TO RAIL SAFETY IMPROVEMENT ACT OF 2008.—(1) The table of contents in section 1(b) of the Rail Safety Improvement Act of 2008 is amended—

(A) in the item relating to section 307, by striking "website" and inserting "Web site";

(B) in the item relating to section 403, by striking "Track inspection time study" and inserting "Study and rulemaking on track inspection time; rulemaking on concrete cross ties";

(C) in the item relating to section 408, by striking "Conrail" and inserting "Consolidated Rail Corporation";

(D) in the item relating to title VI, by striking "SOLID WASTE FACILITIES" and inserting "SOLID WASTE RAIL TRANSFER FACILITIES"; and

(E) in the item relating to section 602 by striking "solid waste transfer facilities" and inserting "solid waste rail transfer facilities".

(2) Section 2(a)(1) of the Rail Safety Improvement Act of 2008 is amended by inserting a comma after "tracks at grade".

(3) Section 102(a)(6) of the Rail Safety Improvement Act of 2008 is amended to read as follows:

"(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic and other failures of such infrastructure.".

(4) Section 206(a) of the Rail Safety Improvement Act of 2008 is amended by striking "Public Service Announcements" and inserting "public service announcements".

(5) Section 307 of the Rail Safety Improvement Act of 2008 is amended—

(A) in the section heading, by striking "**WEBSITE**" and inserting "**WEB SITE**";

(B) in subsection (a), by striking "website" each place it appears and inserting "Web site"; and

(C) in subsection (b), by striking "website's" and inserting "Web site's".

(6) Section 403 of the Rail Safety Improvement Act of 2008 is amended in the section heading by striking "**TRACK INSPECTION TIME STUDY**" and inserting "**STUDY AND RULEMAKING ON TRACK INSPECTION TIME; RULEMAKING ON CONCRETE CROSS TIES**".

(7) Section 405 of the Rail Safety Improvement Act of 2008 is amended—

(A) in subsection (a), by striking "cell phones" and inserting "cellular telephones"; and

(B) in subsection (d), by striking "Secretary of Transportation" and inserting "Secretary".

(8) Section 408 of the Rail Safety Improvement Act of 2008 is amended in the section heading by striking "**CONRAIL**" and inserting "**CONSOLIDATED RAIL CORPORATION**".

(9) Section 412 of the Rail Safety Improvement Act of 2008 is amended by striking "Secretary of Transportation" and inserting "Secretary".

(10) Section 414 of the Rail Safety Improvement Act of 2008 is amended—

(A) by striking "parts 171.8, 173.115," and inserting "sections 171.8, 173.115,"; and

(B) by striking "part 1520.5" and inserting "section 1520.5".

(11) Section 416 of the Rail Safety Improvement Act of 2008 is amended—

(A) by striking "Secretary of Transportation" and inserting "Secretary"; and

(B) in paragraph (4), by striking "subsection" and inserting "section".

(12) Section 417(c) of the Rail Safety Improvement Act of 2008 is amended by striking "each railroad" and inserting "each railroad carrier".

(13) Section 503 of the Rail Safety Improvement Act of 2008 is amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking "passenger rail accidents" and inserting "rail passenger accidents";

(ii) by striking "passenger rail accident" each place it appears and inserting "rail passenger accident"; and

(iii) in paragraph (4), by striking "a count of the number of passengers onboard the train" and inserting "a count of the number of passengers aboard the train"; and

(B) by adding at the end a new subsection (d) to read as follows:

"(d) DEFINITIONS.—In this section, the terms 'passenger' and 'rail passenger accident' have the meaning given those terms by section 1139 of this title.".

(14) The heading title VI of the Rail Safety Improvement Act of 2008 is amended by striking "**SOLID WASTE FACILITIES**" and inserting "**SOLID WASTE RAIL TRANSFER FACILITIES**".

(15) The heading of section 602 of the Rail Safety Improvement Act of 2008 is amended by striking "**SOLID WASTE TRANSFER FACILITIES**" and inserting "**SOLID WASTE RAIL TRANSFER FACILITIES**".

(c) TECHNICAL CORRECTIONS TO PROVISIONS OF THE UNITED STATES CODE ENACTED IN, OR AMENDED BY, THE PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008.—

(1) ALTERNATE PASSENGER RAIL SERVICE PILOT.—Section 24711 of title 49, United States Code, is amended—

(A) in subsection (a)(1) by striking "a period not to exceed 5 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008" and inserting "an operations period of 5 years, renewable for a second 5-year operations period at the discretion of the Administrator"; and

(B) by inserting after subsection (e) the following new subsection:

"(f) TRANSFER AUTHORITY.—The Secretary of Transportation may provide directly to a winning bidder selected under this section any portion of appropriations for Amtrak operations necessary to cover the operating subsidy described in subsection (a)(5)(B).".

(2) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—Section 26106(e)(2) of title 49, United States Code, is amended—

(A) in subparagraph (A)(v), by striking "that if an applicant has selected the proposed operator of its service, that the applicant provide", and inserting "that the applicant shall select the proposed operator of its service competitively, and that the applicant shall provide"; and

(B) in subparagraph (B)(ii)—

(i) by inserting "and" at the end of subclause (I);

(ii) by inserting "and" at the end of subclause (II); and

(iii) by striking subclauses (III) and (IV).

(d) STATE-SUPPORTED ROUTES.—Section 209(c) of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432, 122 Stat. 4918) is amended by striking "within 1 year after the Board's determination" and inserting "by the first day of the first fiscal year beginning at least 1 year after the Board's determination".

Subtitle H—Miscellaneous

SEC. 8701. APPLICATION OF BUY AMERICA TO INTERCITY PASSENGER RAIL SERVICE CORRIDORS.

Section 24405(a) of title 49, United States Code, is amended—

(1) by striking paragraph (4) and redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively; and

(2) by adding at the end the following new paragraphs:

"(11) The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this title.

"(12) If the Secretary receives a request for a waiver under this subsection, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request. Such a notice shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation. If the Secretary issues a waiver under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the waiver that addresses the public comments received under this paragraph and shall ensure that such justification is published before the waiver takes effect.".

SEC. 8702. PROHIBITION ON USE OF FUNDS FOR CALIFORNIA HIGH-SPEED RAIL.

No funds made available to carry out this Act or any amendment made by this Act may be used for high-speed rail in the State of California, for the California High-Speed Rail Authority, or for projects designed to further high-speed rail in the State of California.

SEC. 8703. DISADVANTAGED BUSINESS ENTERPRISES.

(a) AVAILABILITY OF FUNDS.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any capital grant program under the jurisdiction of the Federal Railroad Administration shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

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

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning that term has under section 3 of the Small Business Act (15 U.S.C. 632), except that the term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $22,410,000, as adjusted annually by the Secretary of Transportation for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning that term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available for any capital grant program under the jurisdiction of the Federal Railroad Administration, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

(d) PROGRAM IMPLEMENTATION.—This section shall be carried out by the Secretary and by States in a manner consistent with that by which the disadvantaged business enterprises program authorized by section 1101(c) of this Act is carried out.

TITLE IX—HAZARDOUS MATERIAL TRANSPORTATION

SEC. 9001. SHORT TITLE.

This title may be cited as the "Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012".

SEC. 9002. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 9003. FINDINGS.

Congress finds the following:

(1) There are annually 2.2 billion tons of hazardous material shipments by all modes across the United States totaling more than $1.4 trillion.

(2) The number of fatalities and serious injuries caused by the transportation of hazardous material has been historically low, averaging 4.2 fatalities per 100 million shipments – meaning an American is about 4 times more likely to be killed by lightning than a hazardous material in transportation. In fiscal year 2010, there was the lowest number of hazardous material incidents on record.

(3) It is critical to the economic health of the Nation that the laws and regulations governing the transportation of hazardous material maintain a high level of safety, while balancing the need for economic growth, innovation, competitiveness, and job creation.

(4) The individuals involved in the transportation stream and the public benefit from a regulatory regime that is certain, uniform, cost-efficient, and science-based.

(5) Because of the potential risks to life, property, and the environment posed by an unintentional release of hazardous material, consistency and uniformity in laws and regulation regarding the transportation of hazardous material is necessary and desirable.

SEC. 9004. PURPOSES.

Section 5101 is amended by striking "that are inherent".

SEC. 9005. DEFINITIONS.

(a) HAZMAT EMPLOYER.—Section 5102(4)(A)(i)(I) is amended by striking "or uses".

(b) TRANSPORTS.—Section 5102(13) is amended to read as follows:

"(13) 'transports' or 'transportation'—

"(A) means the movement of property and loading, unloading, handling, or storage incidental to the movement;

"(B) includes all activities related to—

"(i) loading or unloading packaged or containerized hazardous material, such as portable tanks, cylinders, and intermediate bulk containers, onto a transport vehicle, rail car, aircraft, or vessel at its origin, during en route movement, or at its destination; or

"(ii) loading or unloading a hazardous material into or from a bulk packaging with a capacity greater than 3,000 liters, such as a portable tank, cargo tank, or rail tank car, at its origin, during en route movement, or at its destination; and

"(C) includes storage of a hazardous material from the time the hazardous material is loaded for purposes of movement until the hazardous material is unloaded at its destination, including during en route movement.".

SEC. 9006. GENERAL REGULATORY AUTHORITY.

(a) REGULATIONS FOR SAFE TRANSPORTATION.— Section 5103(b)(1)(A) is amended—

(1) in clause (vi) by striking "or" at the end;

(2) by redesignating clause (vii) as clause (viii);

(3) by inserting after clause (vi) the following:

"(vii) provides hazardous material transportation emergency response information services required or governed by regulations prescribed under this chapter; or"; and

(4) in clause (viii) (as redesignated by paragraph (2) of this section) by striking "(vi); and" and inserting "(vii);".

(b) FITNESS DETERMINATIONS.—

(1) IN GENERAL.—Section 5103(b)(1) is amended—

(A) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(B) by adding at the end the following:

"(C) shall govern the procedures and criteria used by the Secretary for determining the fitness of a person applying for an approval or a special permit under the regulations.".

(2) REGULATION REQUIRED.—In accordance with section 5103(b)(2) of title 49, United States Code, not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall take all actions necessary to finalize a regulation pursuant to section 5103(b)(1)(C) of such title.

(c) IMPROVING REGULATIONS AND REGULATORY REVIEW.—

(1) IN GENERAL.—Section 5103(b) is amended by adding at the end the following:

"(3) Before any final regulation within the jurisdiction of the Secretary is issued, the Secretary shall make all preliminary and final determinations based on evidence and consider, in addition to other applicable considerations, the following:

"(A) The legal authority under which a rule may be proposed, including whether a rulemaking is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rulemaking.

"(B) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.

"(C) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency's jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.

"(D) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.

"(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

"(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

"(G) Means to increase the cost-effectiveness of any Federal response.

"(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

"(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

"(i) the alternative of no Federal response;

"(ii) amending or rescinding existing rules;

"(iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

"(iv) potential responses that—

"(I) specify performance objectives rather than conduct or manners of compliance;

"(II) establish economic incentives to encourage desired behavior;

"(III) provide information upon which choices can be made by the public; or

"(IV) incorporate other innovative alternatives rather than agency actions that specify conduct or manners of compliance.

"(4) The Secretary shall solicit and take into consideration public comment on the subjects described in subparagraphs (A) through (I) of paragraph (3) before issuance of a final regulation described in paragraph (3).

"(5) The Secretary shall follow applicable rulemaking procedures under section 553 of title 5 before issuing a binding obligation applicable to recipients of Federal assistance. In this paragraph, the term 'binding obligation' means a substantive policy statement, rule, or guidance document issued by the Secretary that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall apply to regulations for which the notice of proposed rulemaking is published after the date of enactment of this Act.

(d) INCORPORATION BY REFERENCE.—Section 5103(b) is further amended by adding after paragraph (5) (as added by subsection (c)(1) of this section) the following:

"(6) In considering whether to incorporate by reference any publication in prescribing regulations, the Secretary shall—

"(A) consider—

"(i) the cost of such publication;

"(ii) the broadness of its applicability;

"(iii) the cost imposed on the public in acquiring such publication; and

"(iv) other alternatives to incorporation by reference; and

"(B) either incorporate by reference the publication or use the alternative that meets the Department of Transportation's safety objectives in the most cost-effective manner.".

SEC. 9007. INSPECTIONS OF MOTOR VEHICLES TRANSPORTING RADIOACTIVE MATERIAL.

Section 5105(d) is amended to read as follows:

"(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—

"(1) REQUIREMENT.—The Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations.

"(2) TYPE OF INSPECTOR.—In carrying out paragraph (1), the Secretary may—

"(A) require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures; or

"(B) allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter.

"(3) QUALIFICATION REQUIREMENTS.—An individual conducting an inspection under paragraph (2)(B) shall be in compliance with the inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle.

"(4) PREEMPTION.—Each State that a motor vehicle transporting a highway-route-controlled quantity of radioactive material in commerce enters shall recognize the inspection and certification required by paragraph (1) and may not require a new inspection at an equivalent level and certification except as provided in paragraph (5).

"(5) CHANGED CONDITION.—If an en route change to the condition of the cargo, the driver, the motor vehicle, or the operation of the motor vehicle invalidates the certification under paragraph (1), the State where such change is discovered may require a new inspection and certification under such paragraph.".

SEC. 9008. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.

(a) TRAINING GRANTS.—Section 5107 is amended—

(1) by striking subsections (e) and (h); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(b) SAFE LOADING, UNLOADING, AND HANDLING.—Section 5107(f)(2), as redesignated by subsection (a)(2) of this section, is amended by striking "and section 5106".

SEC. 9009. FEES.

Section 5108(g)(2) is amended—

(1) in subparagraph (A)—

(A) in the matter before clause (i) by striking "be at least $250 but not more than" and inserting "not exceed"; and

(B) in clause (viii) by striking "sections 5108(g)(2), 5115," and inserting "this paragraph and sections 5115"; and

(2) by adding at the end the following:

"(D) In establishing and collecting a fee under subparagraph (A), the Secretary may not consider whether a person has or is likely to apply for a special permit or approval, nor is the Secretary authorized to establish a separate fee in order to apply for or receive a special permit or approval.".

SEC. 9010. MOTOR CARRIER SAFETY PERMITS.

(a) APPLICABLE TRANSPORTATION.—Section 5109(b)(1) is amended by striking "class A or B" and inserting "division 1.1, 1.2, or 1.3".

(b) OFFEROR RESPONSIBILITY.—The heading for subsection (f) of section 5109 is amended by striking "SHIPPER" and inserting "OFFEROR".

(c) TECHNICAL AMENDMENT.—Section 5109 is amended by striking subsection (h).

(d) PROGRAM REVIEW AND REPORT.—

(1) PROGRAM REVIEW.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation shall conduct a proceeding, using notice and comment procedures in accordance with section 553 of title 5, United States Code, to examine the implementation of the hazardous material safety permit program established by section 5109 of title 49 of such Code, including—

(i) safety concerns related to former permit holders that have re-applied for a permit after being out of the program for a year or longer; and

(ii) fairness of the program for carriers whose total number of inspections over the course of the fiscal year cycle may create a disadvantage.

(B) CONSULTATION.—In carrying out subparagraph (A), the Secretary shall consult with motor carriers, persons offering hazardous material for transportation in commerce, the Commercial Vehicle Safety Alliance, and others that have direct experience with the implementation of the program.

(2) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the implementation of the hazardous material safety permit program established by section 5109 of title 49, United States Code.

(B) CONTENTS.—The report shall include—

(i) an identification of the number of permits that have been issued, denied, revoked, or suspended for each registration cycle since the inception of the program by the type of covered hazardous material transported;

(ii) an explanation of the reason for each denial, revocation, and suspension, including administrative denials, revocations, and suspensions;

(iii) a record and analysis of the types of implementation issues identified in the proceeding under paragraph (1)(A); and

(iv) a description of the Secretary's actions—

(I) to simplify the permit application process;

(II) to minimize the number of administrative denials, revocations, and suspensions;

(III) to address the issues identified under clause (iii); and

(IV) to ensure a consistent standard of safety fitness that does not fluctuate over time.

(e) REGULATION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall take such actions as are necessary to ensure that regulations prescribed to carry out the program under section 5109 of title 49, United States Code, ensure a consistent standard of safety fitness that does not fluctuate over time and address issues identified in the proceeding in subsection (d)(1)(A).

SEC. 9011. PLANNING AND TRAINING GRANTS, MONITORING, AND REVIEW.

(a) TRAINING GRANTS.—Section 5116(b)(4) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting "and subsection (a)" after "this subsection"; and

(B) by inserting "planning and" after "emergency response"; and

(2) in subparagraph (E) by inserting "and subsection (a)" before the period at the end.

(b) COMPLIANCE WITH CERTAIN LAWS.—Section 5116(c) is amended to read as follows:

"(c) COMPLIANCE WITH CERTAIN LAW.—The Secretary may make a grant to a State or Indian tribe under this section in a fiscal year only if—

"(1) the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003); and

"(2) the State or Indian tribe certifies to the Secretary that such State or Indian tribe is in compliance with section 5125(f).".

(c) SUPPLEMENTAL TRAINING GRANTS.—Section 5116(j) is amended—

(1) in paragraph (1) by striking "funds," and all that follows through "fighting fires for" and inserting "funds and through a competitive process, make grants to national nonprofit fire service organizations for";

(2) in paragraph (3)(A) by striking "train" and inserting "provide portable training for"; and

(3) in paragraph (4)—

(A) by striking "train" and inserting "provide portable training for"; and

(B) by inserting after "training courses shall" the following: "comply with national consensus standards for hazardous material response and".

(d) REPORTS.—Section 5116(k) is amended—

(1) in the first sentence by striking "planning grants" and all that follows through "and under section 5107" and inserting "grants allocated under subsections (a), (b), and (j)";

(2) in the second sentence—

(A) by inserting "planning and" before "training grants"; and

(B) by inserting "planning and" before "training programs".".

SEC. 9012. SPECIAL PERMITS AND EXCLUSIONS.

Section 5117 is amended—

(1) in subsection (a)—

(A) by striking "(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—(1) As provided under procedures prescribed by regulation," and inserting the following:

"(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

"(1) IN GENERAL.—As provided under procedures and criteria prescribed by regulation in accordance with section 553 of title 5,";

(B) by inserting after paragraph (1) the following:

"(2) REQUIREMENTS.—The Secretary shall ensure that the procedures and criteria prescribed under paragraph (1) provide adequate consistency, predictability, and transparency in making the determinations to issue, modify, or terminate a special permit."; and

(C) by striking "(2) A special permit" and inserting the following:

"(3) EFFECTIVE PERIOD.—A special permit"; and

(2) by adding at the end the following:

"(f) LIMITATION ON DENIAL.—The Secretary may not deny an application for a modification or renewal of a special permit or an application for party status to an existing special permit for the sole reason that the applicant has a hazardous material out-of-service percentage of greater than the national average, according to the safety and fitness records maintained by the Federal Motor Carrier Safety Administration.

"(g) INCORPORATION INTO REGULATION.—

"(1) IN GENERAL.—Not later than 1 year after the date on which a special permit has been in continuous effect for a 6-year period, the Secretary shall develop and implement a rulemaking pursuant to section 5103 to incorporate the special permit into regulation if the special permit—

"(A) concerns a matter of general applicability;

"(B) has future effect; and

"(C) is consistent with hazardous material safety.

"(2) INTENT.—Nothing in paragraph (1) limits the Secretary from incorporating a special permit into regulation at any time before the deadline set by paragraph (1).

"(3) OLDER SPECIAL PERMITS.—Not later than 3 years after the date of enactment of this subsection, the Secretary shall finalize a rulemaking pursuant to section 5103 to incorporate into regulation any special permit that concerns a matter of general applicability, has future effect, is consistent with hazardous material safety, and has been in continuous effect for more than a 6-year period as of the date of enactment of this subsection.".

SEC. 9013. HAZARDOUS MATERIAL UNIFORM MOTOR CARRIER PERMIT PROGRAM.

Section 5119 is amended by striking subsection (a) and all that follows through the end of the section and inserting the following:

"(a) UNIFORM MOTOR CARRIER PERMIT PROGRAM DEFINED.—In this section, the term 'Uniform Motor Carrier Permit Program' means the State-based, reciprocal program of uniform forms and procedures for registering and permitting persons who transport hazardous material by motor vehicle developed and recommended by the Alliance for Uniform Hazmat Transportation Procedures, including any superseding amendments or revisions adopted by the Secretary pursuant to subsection (b).

"(b) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012, the Secretary shall issue regulations to implement the Uniform Motor Carrier Permit Program.

"(2) REVISIONS.—The Secretary may modify the regulations issued under paragraph (1) only as necessary to promote safety, efficiency, and uniformity.

"(c) FINANCIAL AND TECHNICAL ASSISTANCE AND SUPPORT.—

"(1) IN GENERAL.—The Secretary may provide planning and transition assistance to States to facilitate the adoption of the Uniform Motor Carrier Permit Program.

"(2) USE OF FUNDS.—A State shall use assistance awarded under this subsection only to transition existing State registration and permitting programs to the Uniform Motor Carrier Permit Program.

"(3) TERMINATION OF AUTHORITY.—The authority to provide assistance to States under this subsection shall terminate 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012.

"(d) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement for outreach, data management, and other centralized functions supporting implementation of the Uniform Motor Carrier Permit Program.

"(e) RELATED EXPENSES.—For purposes of section 5125(f)(1), a fee used for a purpose related to transporting hazardous material may include the costs incurred in implementing and administering the Uniform Motor Carrier Permit Program, including the costs of establishing or modifying forms, procedures, and systems.

"(f) TRANSITION OF STATE PROGRAMS.—Not later than 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012, a State may enforce registration and permitting requirements for motor carriers that transport hazardous material in commerce only in accordance with the Uniform Motor Carrier Permit Program.

"(g) LIMITATION.—Nothing in this section shall define or limit the amount of a fee a State may impose or collect for registration and permitting.".

SEC. 9014. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.

Section 5120 is amended—

(1) in subsection (a) by striking "State, the Secretary of Transportation shall participate" and inserting "State and the Secretary of Transportation, the Administrator of the Pipelines and Hazardous Materials Safety Administration, or the Administrator's designee, shall represent the United States and serve as the United States competent authority"; and

(2) in subsection (b)—

(A) by striking "The Secretary" and inserting "The Administrator"; and

(B) by striking "sections 5103(b), 5104, 5110, and 5112 of this title" and inserting "this chapter".

SEC. 9015. INVESTIGATIONS.

(a) INSPECTIONS AND INVESTIGATIONS.—Section 5121(c)(1) is amended—

(1) in subparagraph (B) by striking "may contain a hazardous material;" and inserting "may contain an undeclared hazardous material and such activity takes place at a properly equipped facility designated by the Secretary for this purpose;";

(2) in subparagraph (C), in the matter preceding clause (i), by striking "or related packages" and inserting "suspected of containing undeclared hazardous material";

(3) in subparagraph (E) by striking "may order" and all that follows through "; and" and inserting "may order the offeror, after giving notice to the carrier, to have the package transported to, opened, and the contents examined and analyzed at a properly equipped facility designated by the Secretary for this purpose;";

(4) in subparagraph (F) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following:

"(G) shall provide contemporaneous notice to the affected offeror and carrier of its decision to exercise its authority under subparagraph (B), (C), (D), or (E).".

(b) REGULATIONS.—

(1) IN GENERAL.—Section 5121(e) is amended to read as follows:

"(e) REGULATIONS.—To carry out subsections (c) and (d), the Secretary shall issue regulations in accordance with section 553 of title 5 that address, at a minimum, the following:

"(1) Avoidance of delay in the transportation of time-sensitive materials, such as medical products, perishables, and other packages that are not the subject of the inspection.

"(2) Appropriate training and equipment for inspectors.

"(3) Restoration of the properly certified status of the inspected package before resumption of transportation of that package.

"(4) Consideration of the costs and damages that might occur as a result of an inspection.".

(2) REGULATION REQUIRED.—In accordance with section 5103(b)(2) of title 49, United States Code, not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall take all actions necessary to finalize a regulation pursuant to section 5121(e) of such title.

SEC. 9016. BUILDING PARTNERSHIPS FOR IMPROVED SAFETY AND SYSTEM PERFORMANCE.

Section 5121(g) is amended—

(1) in paragraph (3) by striking "or" after the semicolon;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) to work with State enforcement personnel with information and training relating to the uniform enforcement of the regulations governing the transportation of hazardous material; or".

SEC. 9017. SAFETY REPORTING.

Section 5121(h) is amended—

(1) in the heading by inserting "BIENNIAL" before "REPORT";

(2) in the matter before paragraph (1) by striking "materials during" and inserting "material in all modes of transportation during";

(3) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(4) by inserting after paragraph (1) the following:

"(2) a summary of the hazardous material transported during the period covered by the report, set forth by the type and quantity of hazardous material and by mode;";

(5) in paragraph (4), as redesignated by paragraph (3) of this section, by striking "permit" and inserting "permit issued";

(6) in paragraph (5), as redesignated by paragraph (3) of this section, by striking "activities" and inserting "activities, including activities conducted under subsections (c) and (d),"; and

(7) in paragraph (7), as redesignated by paragraph (3) of this section, by striking "appropriate legislation" and inserting "legislative action that the Secretary considers appropriate".

SEC. 9018. CIVIL PENALTIES.

(a) PENALTY.—Section 5123(a) is amended—

(1) in paragraph (1) by striking "at least $250 but";

(2) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(3) by adding at the end the following:

"(4) A carrier shall not be liable for violations of this chapter, or a regulation issued under this chapter, stemming from pre-transportation functions, as defined in section 171.1 of title 49, Code of Federal Regulations, that are performed by another person unless the carrier has actual knowledge of a violation.".

(b) PENALTY FOR FAILURE TO MAINTAIN RECORDS, REPORTS, AND INFORMATION.—Section 5123 is amended by adding at the end the following:

"(h) PENALTY FOR FAILURE TO MAINTAIN RECORDS, REPORTS, AND INFORMATION.—The Secretary may impose a penalty on a person who fails to comply with section 5121(b).".

SEC. 9019. PREEMPTION.

(a) BURDEN ON COMMERCE.—Section 5125(a) is amended—

(1) in paragraph (1) by striking "or" after the semicolon;

(2) in paragraph (2) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) the requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an unreasonable burden on commerce.".

(b) SUBSTANTIVE DIFFERENCES.—Section 5125(b)(1)(D) is amended by striking "written".

(c) ROUTE REGISTRY.—Section 5125(c)(1) is amended by striking the period at the end and inserting "and is published in the Department's hazardous material route registry under section 5112(c).".

(d) FEES.—Section 5125(f)(2) is amended by striking ", upon the Secretary's request," and inserting "biennially".

(e) NON-FEDERAL ENFORCEMENT STANDARDS.—Section 5125 is amended by striking subsection (h).

(f) CONFORMING CHANGE.—Section 5125 is further amended—

(1) in subsections (d)(1) and (e) by striking "or section 5119(f)"; and

(2) in subsection (g) by striking ", and in section 5119(f),".

SEC. 9020. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 is amended to read as follows:

"§ 5128. Authorization of appropriations

"(a) IN GENERAL.—In order to carry out this chapter (except sections 5108(g)(2), 5113, 5115, 5116, and 5119), there are authorized to be appropriated to the Secretary $39,000,000 for each of fiscal years 2012 through 2016.

"(b) HAZARDOUS MATERIAL EMERGENCY PREPAREDNESS FUND.—For each of the fiscal years 2012 through 2016, there shall be available to the Secretary, from the account established pursuant to section 5116(i), the following:

"(1) To carry out section 5115, $188,000.

"(2) To carry out subsections (a) and (b) of section 5116, $21,800,000.

"(3) To carry out section 5116(f), $150,000.

"(4) To publish and distribute the Emergency Response Guidebook under section 5116(j)(3), $625,000.

"(5) To carry out section 5116(j), $1,000,000.

"(c) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated to the Secretary such amounts as may be necessary to carry out section 5103a.

"(d) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, tribe, authority, or entity.

"(e) UNIFORM FORMS AND PROCEDURES.—There are authorized to be appropriated to the Secretary $1,000,000 to carry out section 5119. This amount shall remain available to be expended by the Secretary for the 6-year period that begins on the date of enactment of this section.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section, except for the amount under subsection (e), shall remain available until expended.".

SEC. 9021. ELECTRONIC SHIPPING PAPERS PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall establish pilot projects, at least one of which shall be in a rural area, to evaluate the feasibility and cost effectiveness of electronic shipping paper systems that facilitate the exchange of shipping paper information between offerors of hazardous material under chapter 51 of title 49, United States Code, carriers, and emergency responders.

(b) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the pilot projects carried out under this section.

(2) CONTENTS.—The report shall contain, at a minimum—

(A) an evaluation of each pilot project, including an evaluation of the impacts on safety and the performance of each system evaluated under that project and a cost-benefit analysis for each mode of transportation; and

(B) based on the results of the cost-benefit analyses, a recommendation on whether electronic shipping papers systems described in subsection (a) should be incorporated into the Federal hazardous material safety program under chapter 51 of title 49, United States Code, on a permanent basis.

SEC. 9022. WETLINES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Transportation shall enter into an arrangement with an objective non-profit organization to conduct a peer-reviewed study of the transportation of flammable liquids in the external product piping of cargo tank motor vehicles (commonly referred to as "wetlines").

(2) CONTENTS.—The study shall—

(A) accurately quantify the number of wetlines incidents over a 10-year period;

(B) identify various alternatives to loading and transporting flammable liquids in cargo tank wetlines;

(C) examine the costs and benefits of each alternative; and

(D) identify existing obstacles to implementing each alternative.

(3) TRANSMITTAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a copy of the study.

(b) REGULATORY RESTRICTION.—The Secretary may not issue a final rule regulating the transportation of flammable liquids in the external product piping of cargo tank motor vehicles.

SEC. 9023. PRODUCT STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study on whether it is necessary to continue to designate any amount or form of finished pharmaceutical, finished cosmetic, or similar product containing ethyl alcohol as a hazardous material under section 5103(a) of title 49, United States Code.

(b) CONTENTS.—The study conducted under subsection (a) shall include, at a minimum—

(1) an evaluation of the history, severity, and costs of any incidents in transporting such products;

(2) an evaluation of the risk posed by such products in commercial packaging in current use in transportation and the risk associated in transporting the products without any specific packaging required by any applicable special permit or regulation;

(3) the costs to the industry of designating the products as hazardous material, including the cost of regulation, as compared with the costs of incidents that have occurred or are probable with regard to the products; and

(4) a summary of comments from industry stakeholders and the public on whether there is a need for continued designation of such products as hazardous material.

(c) TRANSMITTAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under subsection (a) and any proposed actions to be taken by the Secretary resulting from the study.

TITLE X—WATERBORNE TRANSPORTATION

SEC. 10001. SENSE OF CONGRESS ON HARBOR MAINTENANCE.

(a) FINDINGS.—Congress finds the following:

(1) There are 926 ports served by federally maintained channels which handle more than 2.2 billion tons of cargo annually, and this figure is expected to increase.

(2) More than $1.1 trillion in foreign commerce enters the United States through the Nation's ports annually, and this figure is expected to increase.

(3) Expansion of the Panama Canal system in Central America will likely be completed in 2014, and this will present opportunities and challenges for the Nation's economic well-being.

(4) Insufficient maintenance dredging of the Nation's navigation channels results in inefficient water transportation and harmful economic consequences.

(5) In 1986, Congress created the Harbor Maintenance Trust Fund to provide funds for the operation and maintenance of the Nation's navigation channels.

(6) The fiscal year 2011, Harbor Maintenance Trust Fund equity grew by 13.7 percent from fiscal year 2010 (to $6.42 billion) and total annual receipts increased 17.3 percent (to $1.6 billion).

(7) Despite growth of the Harbor Maintenance Trust Fund, expenditures from the Harbor Maintenance Trust Fund continue to decline.

(8) Despite growth of the Harbor Maintenance Trust Fund, federally maintained channels are only at their authorized widths or depths 35 percent of the time, thereby restricting access to the Nation's ports for both imports and exports.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Harbor Maintenance Trust Fund is not being used for its intended purpose and charging maritime commerce a harbor maintenance tax while failing to provide the service for which it was established is unfair and places the Nation at economic risk;

(2) the Administration should request full use of the Harbor Maintenance Trust Fund for operating and maintaining the Nation's navigation system; and

(3) Congress should fully expend the amounts in the Harbor Maintenance Trust Fund to operate and maintain the Nation's navigation system.

SEC. 10002. STUDY AND REPORT ON STRATEGIC PORTS.

(a) STUDY REQUIREMENT.—The Secretary shall conduct a study on infrastructure facility requirements, road and highway improvements, rail connections, and other multimodal transportation capacity requirements necessary to achieve the following goals with respect to strategic ports:

(1) Provide greater access to port facilities.

(2) Reduce congestion.

(3) Improve the movement of goods.
(4) Increase productivity.
(5) Enhance maritime security.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a), with such recommendations as the Secretary considers necessary to achieve the goals listed in that subsection.

(c) STRATEGIC PORT DEFINED.—In this section, the term "strategic port" means a United States port designated by the Secretary and the Secretary of Defense as a significant transportation hub important to the readiness and cargo throughput capacity of the Department of Defense.

TITLE XI—REAUTHORIZATION AND AMENDMENTS TO THE SPORT FISH RESTORATION AND BOATING TRUST FUND

SEC. 11001. SHORT TITLE.

This title may be cited as the "Sportfishing and Recreational Boating Safety Act of 2012".

SEC. 11002. REAUTHORIZATION AND AMENDMENTS TO THE SPORT FISH RESTORATION AND BOATING TRUST FUND.

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

(1) in subsection (a) in the matter preceding paragraph (1), by striking "For each of" and all that follows through "the balance of each annual" and inserting "For each fiscal year through fiscal year 2016, the balance of each annual";

(2) in subsection (b)(1)(A), by striking "From the annual" and all that follows through "the Secretary" and inserting "From the annual appropriation made in accordance with section 3 for each fiscal year through fiscal year 2016, the Secretary"; and

(3) by striking subsection (b)(1)(B) and inserting the following:

"(B) AVAILABLE AMOUNTS.—The available amount referred to in subparagraph (A) is, for each fiscal year, the sum of—

"(i) the available amount for the preceding fiscal year; and

"(ii) the amount determined by multiplying—

"(I) the available amount for the preceding fiscal year; and

"(II) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.".

(b) EXTENSION OF EXPENDITURE AUTHORITY FROM THE SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (b)(2), by striking "(as in effect on" each place it appears and all that follows through the next closed parenthesis and inserting "(as in effect on the date of enactment of the Sportfishing and Recreational Boating Safety Act of 2012)", and

(2) in subsection (d)(2), by striking "before" and all that follows through "in accordance" and inserting "before October 1, 2016, in accordance".

(c) AUTHORIZATION OF APPROPRIATIONS.—Chapter 131 of title 46, United States Code, is amended—

(1) in section 13107(a)(2), by striking "two" and inserting "1.5"; and

(2) in section 13107(c), by striking so much as precedes paragraph (2) and inserting the following:

"(c)(1) Of the amount transferred to the Secretary under section 4(a)(2) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2))—

"(A) $6,000,000 is available to the Secretary for the payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which not less than $2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title; and

"(B) $100,000 is available to fund the activities of the National Boating Safety Advisory Council established under this chapter.".

TITLE XII—EXTENSION OF SURFACE TRANSPORTATION PROGRAMS

SEC. 12001. SHORT TITLE; EFFECTIVE DATE.

(a) SHORT TITLE.—This title may be cited as the "Surface Transportation Extension Act of 2012".

(b) EFFECTIVE DATE.—The amendments made by this title take effect on April 1, 2012.

Subtitle A—Federal-Aid Highways

SEC. 12101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

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

(1) by striking "the period beginning on October 1, 2011, and ending on March 31, 2012," each place it appears and inserting "fiscal year 2012";

(2) by striking "½ of" each place it appears; and

(3) in subsection (a) by striking "March 31, 2012" and inserting "September 30, 2012".

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

(1) in paragraph (3)—

(A) in subparagraph (A) by striking ", except that during such period" and all that follows before the period at the end; and

(B) in subparagraph (B)(ii) by striking "$319,500,000" and inserting "$639,000,000"; and

(2) by striking paragraph (4).

(c) EXTENSION OF AUTHORIZATIONS UNDER TITLE V OF SAFETEA–LU.—Section 111(e)(2) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended by striking "the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "fiscal year 2012.".

(d) ADMINISTRATIVE EXPENSES.—Section 112(a) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 346) is amended by striking "$196,427,625 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "$392,855,250 for fiscal year 2012.".

Subtitle B—Extension of Highway Safety Programs

SEC. 12201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is amended by striking "$235,000,000 for fiscal year 2009" and all that follows through the period at the end and inserting "and $235,000,000 for each of fiscal years 2009 through 2012.".

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2001(a)(2) of SAFETEA–LU (119 Stat. 1519) is amended by striking "$108,244,000 for fiscal year 2011" and all that follows through the period at the end and inserting "and $108,244,000 for each of fiscal years 2011 and 2012.".

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2001(a)(3) of SAFETEA–LU (119 Stat. 1519) is amended by striking ", $25,000,000 for fiscal year 2006" and all that follows through the period at the end and inserting "and $25,000,000 for each of fiscal years 2006 through 2012.".

(d) SAFETY BELT PERFORMANCE GRANTS.—Section 2001(a)(4) of SAFETEA–LU (119 Stat. 1519) is amended by striking "and $24,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "and $48,500,000 for fiscal year 2012.".

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

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—Section 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amended by striking "$139,000,000 for fiscal year 2009" and all that follows through the period at the

end and inserting "and $139,000,000 for each of fiscal years fiscal years 2009 through 2012.".

(g) NATIONAL DRIVER REGISTER.—Section 2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amended by striking "and $2,058,000 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "and $4,000,000 for fiscal year 2012.".

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520) is amended by striking "for fiscal year 2006" and all that follows through the period at the end and inserting "for each of fiscal years 2006 through 2012.".

(i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of SAFETEA–LU (119 Stat. 1520) is amended by striking "$7,000,000 for fiscal year 2009" and all that follows through the period at the end and inserting "and $7,000,000 for each of fiscal years 2009 through 2012.".

(j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—Section 2001(a)(10) of SAFETEA–LU (119 Stat. 1520) is amended by striking "$7,000,000 for fiscal year 2009" and all that follows through the period at the end and inserting "and $7,000,000 for each of fiscal years 2009 through 2012.".

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

SEC. 12202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.

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

"(8) $212,000,000 for fiscal year 2012.".

(b) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1)(H) of title 49, United States Code, is amended to read as follows:

"(H) $244,144,000 for fiscal year 2012.".

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

(1) in paragraph (1) by striking "and $15,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "and $30,000,000 for fiscal year 2012.";

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

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

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

(5) in paragraph (5) by striking "2011 and $1,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "2012.".

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

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

(f) OUTREACH AND EDUCATION.—Section 4127(e) of SAFETEA–LU (119 Stat. 1741) is amended by striking "and 2011 (and $500,000 to the Federal Motor Carrier Safety Administration, and $1,500,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2011, and ending on March 31, 2012)" and inserting "2011, and 2012".

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

(h) MOTOR CARRIER SAFETY ADVISORY COMMITTEE.—Section 4144(d) of SAFETEA–LU (119 Stat. 1748) is amended by striking "March 31, 2012" and inserting "September 30, 2012".

(i) WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.—Section 4213(d) of SAFETEA–LU (49 U.S.C. 14710 note; 119 Stat. 1759) is amended by striking "March 31, 2012" and inserting "September 30, 2012".

SEC. 12203. ADDITIONAL PROGRAMS.

(a) HAZARDOUS MATERIALS RESEARCH PROJECTS.—Section 7131(c) of SAFETEA–LU (119 Stat. 1910) is amended by striking "2011 and $580,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012".

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

(1) in subsection (a) by striking "2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012,"; and

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

Subtitle C—Public Transportation Programs

SEC. 12301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.

Section 5305(g) of title 49, United States Code, is amended by striking "2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012" and inserting "2012".

SEC. 12302. SPECIAL RULE FOR URBANIZED AREA FORMULA GRANTS.

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

(1) by striking the paragraph heading and inserting "SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2012.—";

(2) in subparagraph (A) by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012," ; and

(3) in subparagraph (E)—

(A) by striking the subparagraph heading and inserting "MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2012.—"; and

(B) in the matter preceding clause (i) by striking "2011 and during the period beginning on October 1, 2011, and ending on March 31, 2012" and inserting "2012".

SEC. 12303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.

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

(1) in paragraph (2)—

(A) by striking the paragraph heading and inserting "FISCAL YEARS 2006 THROUGH 2012.—";

(B) in the matter preceding subparagraph (A) by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012"; and

(C) in subparagraph (A)(i) by striking "2011 and $100,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012";

(2) in paragraph (6)—

(A) in subparagraph (B) by striking "2011 and $7,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012"; and

(B) in subparagraph (C) by striking "2011 and $2,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012"; and

(3) in paragraph (7)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) in the first sentence by striking "2011 and $5,000,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012"; and

(II) in the second sentence by inserting "each fiscal year" before the colon;

(ii) in clause (i) by striking "for each fiscal year and $1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,";

(iii) in clause (ii) by striking "for each fiscal year and $1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,";

(iv) in clause (iii) by striking "for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,";

(v) in clause (iv) by striking "for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,";

(vi) in clause (v) by striking "for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,";

(vii) in clause (vi) by striking "for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,";

(viii) in clause (vii) by striking "for each fiscal year and $325,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,"; and

(ix) in clause (viii) by striking "for each fiscal year and $175,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,";

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

"(vii) $13,500,000 for fiscal year 2012.";

(C) in subparagraph (C) by striking "and during the period beginning on October 1, 2011, and ending on March 31, 2012,";

(D) in subparagraph (D) by striking "and not less than $17,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,"; and

(E) in subparagraph (E) by striking "and $1,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,".

SEC. 12304. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

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

"(G) $15,000,000 for fiscal year 2012.".

SEC. 12305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.

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

SEC. 12306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.

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

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

"(G) $8,360,565,000 for fiscal year 2012."; and

(2) in paragraph (2)—

(A) in subparagraph (A) by striking "$113,500,000 for each of fiscal years 2009 and 2010, $113,500,000 for fiscal year 2011, and $56,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $113,500,000 for each of fiscal years 2009 through 2012";

(B) in subparagraph (B) by striking "$4,160,365,000 for each of fiscal years 2009 and 2010, $4,160,365,000 for fiscal year 2011, and $2,080,182,500 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $4,160,365,000 for each of fiscal years 2009 through 2012";

(C) in subparagraph (C) by striking "$51,500,000 for each of fiscal years 2009 and 2010, $51,500,000 for fiscal year 2011, and $25,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $51,500,000 for each of fiscal years 2009 through 2012";

(D) in subparagraph (D) by striking "$1,666,500,000 for each of fiscal years 2009 and 2010, $1,666,500,000 for fiscal year 2011, and $833,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $1,666,500,000 for each of fiscal years 2009 through 2012";

(E) in subparagraph (E) by striking "$984,000,000 for each of fiscal years 2009 and 2010, $984,000,000 for fiscal year 2011, and $492,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $984,000,000 for each of fiscal years 2009 through 2012";

(F) in subparagraph (F) by striking "$133,500,000 for each of fiscal years 2009 and 2010, $133,500,000 for fiscal year 2011, and $66,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $133,500,000 for each of fiscal years 2009 through 2012";

(G) in subparagraph (G) by striking "$465,000,000 for each of fiscal years 2009 and 2010, $465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $465,000,000 for each of fiscal years 2009 through 2012";

(H) in subparagraph (H) by striking "$164,500,000 for each of fiscal years 2009 and 2010, $164,500,000 for fiscal year 2011, and $82,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $164,500,000 for each of fiscal years 2009 through 2012";

(I) in subparagraph (I) by striking "$92,500,000 for each of fiscal years 2009 and 2010, $92,500,000 for fiscal year 2011, and $46,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $92,500,000 for each of fiscal years 2009 through 2012";

(J) in subparagraph (J) by striking "$26,900,000 for each of fiscal years 2009 and 2010, $26,900,000 for fiscal year 2011, and $13,450,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $26,900,000 for each of fiscal years 2009 through 2012";

(K) in subparagraph (K) by striking "in fiscal year 2006" and all that follows through "March 31, 2012," and inserting "for each of fiscal years 2006 through 2012";

(L) in subparagraph (L) by striking "in fiscal year 2006" and all that follows through "March 31, 2012," and inserting "for each of fiscal years 2006 through 2012";

(M) in subparagraph (M) by striking "$465,000,000 for each of fiscal years 2009 and 2010, $465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $465,000,000 for each of fiscal years 2009 through 2012"; and

(N) in subparagraph (N) by striking "$8,800,000 for each of fiscal years 2009 and 2010, $8,800,000 for fiscal year 2011, and $4,400,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $8,800,000 for each of fiscal years 2009 through 2012".

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

"(7) $1,600,000,000 for fiscal year 2012.".

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "and 2010, $69,750,000 for fiscal year 2011, and $29,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "through 2011 and $44,000,000 for fiscal year 2012"; and

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

"(3) ADDITIONAL AUTHORIZATIONS.—

"(A) RESEARCH.—Of amounts authorized to be appropriated under paragraph (1) for fiscal year 2012, the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

"(B) UNIVERSITY CENTERS PROGRAM.—

"(i) FISCAL YEAR 2012.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for fiscal year 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such clause.

"(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) for the project or activity for fiscal year 2012 or any subsequent fiscal year.".

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

"(7) $98,713,000 for fiscal year 2012.".

SEC. 12307. AMENDMENTS TO SAFETEA–LU.

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of SAFETEA–LU (119 Stat. 1572) is amended by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012,".

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of SAFETEA–LU (49 U.S.C. 5309 note; 119 Stat. 1588) is amended—

(1) in subsection (c)(5) by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012" and inserting "2012"; and

(2) in the second sentence of subsection (d) by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012".

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of SAFETEA–LU (49 U.S.C. 5310 note; 119 Stat. 1593) is amended by striking "March 31, 2012" and inserting "September 30, 2012".

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

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

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

(1) in subsection (b), in the matter preceding paragraph (1), by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012"; and

(2) in subsection (c), in the matter preceding paragraph (1), by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012".

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

(1) in subsection (b) by striking "fiscal year or period" and inserting "fiscal year"; and

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

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

TITLE XIII—ADDITIONAL TRANSPORTATION PROVISIONS

SEC. 13001. AUDIT OF UNION STATION REDEVELOPMENT CORPORATION.

The Inspector General of the Department of Transportation, or an auditor determined by the Inspector General to meet the independence standards specified in the Government Auditing Standards issued by the Comptroller General of the United States, shall once every 2 years conduct an audit of the accounts and operations of the Union Station Redevelopment Corporation. The audit of financial statements shall be conducted in accordance with generally accepted auditing standards and, to the extent determined applicable by the Inspector General, the Government Auditing Standards.

SEC. 13002. PROHIBITION ON USE OF FUNDS.

None of the funds appropriated or otherwise made available under this Act, or the amendments made by this Act, may be used for physical signage indicating that a project is funded under this Act.

PURPOSE OF THE LEGISLATION AND SUMMARY

The purpose of this bill is to provide a long-term reauthorization of federal highway, transit and highway safety programs that will streamline and consolidate federal transportation programs, cut red tape and government bureaucracy, increase funding flexibility for states and local governments, better leverage existing infrastructure resources, and encourage more private sector participation in building infrastructure. The bill also makes significant reforms to other transportation programs, including federal passenger and freight rail transportation, and hazardous materials transportation.

BACKGROUND AND NEED FOR LEGISLATION

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) was enacted in August of 2005 and reauthorized federal surface transportation programs through September 30, 2009.

On September 30, 2009, SAFETEA–LU expired. Since that time, eight extensions of SAFETEA–LU have been enacted to continue funding authority under SAFETEA–LU program structures. The latest extension, the Surface Transportation Extension Act of 2011, Part II (Title I of P.L. 112–30), will expire on March 31, 2012.

Enactment of H.R. 7, the American Energy and Infrastructure Jobs Act of 2012, will reauthorize federal highway, transit, and highway safety programs through fiscal year (FY) 2016, providing the long-term stability that is needed in order for states to plan major transportation infrastructure projects and provide lasting employment.

PROGRAM REFORM AND REDUCING THE SIZE OF GOVERNMENT

Currently, there are over 100 federal surface transportation programs, many of which were created over the last 50 years to address narrow interests beyond the original programmatic goals. Many of these programs are duplicative or do not serve a national interest; they simply add to the massive federal bureaucracy. Dollars that could be directed to infrastructure are instead diverted to the continued administration of these programs.

The American Energy and Infrastructure Jobs Act reforms surface transportation programs by consolidating or eliminating approximately 70 programs that are duplicative or do not serve a federal purpose. This proposal identifies programs that serve similar purposes, such as the Indian Reservation Roads Program and the Transit on Indian Reservations Program, and consolidates them into a Tribal Transportation Program. The proposal also identifies programs that do not serve a federal interest, such as the National Historic Covered Bridge Preservation Program and the Nonmotorized Transportation Pilot Program, and eliminates them.

Furthermore, states will no longer be required to spend highway funding on non-highway activities. States will be permitted to fund such activities if they choose, but they will be provided the flexibility to identify and address their most critical infrastructure needs. However, this additional flexibility will not be unchecked. States will be held accountable for their spending decisions through new performance measures and transparency requirements.

The Highway Trust Fund was created in the 1950s to construct the Interstate Highway System. In the years since, numerous new programs have been created and the focus of our federal transportation programs has expanded well beyond their original intent and goals. This legislation refocuses the Highway Trust Fund on programs and projects that have regional and national impacts and eliminates programs that do not.

Reforming programs and reducing the federal bureaucracy under the American Energy and Infrastructure Jobs Act will ensure a more streamlined federal government and the more effective investment of resources.

STREAMLINING PROJECT DELIVERY AND CUTTING RED TAPE

Government bureaucracy and red tape in the approval and permitting process create needless infrastructure project delays and cost increases. According to the Federal Highway Administration, highway projects can take up to 15 years to complete. While state

and local governments deal with the seemingly endless review process, transportation capacity and safety improvements stall, construction costs escalate, and job creation is put on hold.

For example, after a series of fatal accidents on a roadway in Toulumne County, California, a project was proposed to widen the roadway by no more than two feet in any location, construct 2,000 feet of new guardrail, replace two culvert pipes, and resurface the road. This project took over seven years just to complete the environmental reviews and permit approvals. Unfortunately, during that seven year period there were additional serious accidents on the roadway that could have been avoided.

Project reviews are necessary to help protect the environment, but a more reasonable process is essential to using our resources more effectively. It can be done. When a design flaw caused the collapse of the I–35W bridge in Minnesota in 2007, the replacement was contracted to be completed in just 437 days and was completed significantly ahead of schedule using innovative contracting methods and a streamlined environmental review process.

The American Energy and Infrastructure Jobs Act streamlines and condenses the project review process by cutting bureaucratic red tape, allowing federal agencies to review transportation projects concurrently, setting hard deadlines for federal agencies to approve projects, and delegating more decision making authority to states.

The legislation makes environmental reviews more efficient by: (1) condensing the final environmental impact statement and combining it with the record of decision; (2) providing a single system to review decisions, requiring concurrent reviews, and setting deadlines for approvals; and (3) classifying projects in the right-of-way as categorical exclusions under the National Environmental Policy Act (NEPA).

H.R. 7 clarifies eligibility for pre-construction activities by: (1) allowing for acquisition of land during the NEPA process if the transaction itself does not cause a change in the area's land use or adverse environmental effects; (2) encouraging corridor preservation to reduce project costs, delays, and impacts on communities; and (3) allowing detailed design work prior to completion of the NEPA process at state expense, making such work eligible for federal reimbursement only if the project is subsequently approved.

The bill also promotes integrated planning and programmatic approaches by: (1) building on the efforts in section 6001 of SAFETEA–LU and allowing environmental decisions made in the planning process to be carried forward into the NEPA process; and (2) clarifying authority for programmatic approaches, rather than project-by-project reviews.

By cutting the project review process time in half, the legislation ensures environmental protections remain in place while investing infrastructure resources in a much more effective manner.

INCREASING PRIVATE SECTOR PARTICIPATION AND MAXIMIZING EXISTING REVENUE

The American Energy and Infrastructure Jobs Act maximizes the buying power of infrastructure resources in a number of ways, including better leveraging existing federal funds and adopting policies that will attract private sector investment.

Private sector interest in building infrastructure is considerable, and encouraging the private sector to responsibly partner with federal and state governments can significantly enhance the amount of available federal revenue. While public-private partnerships cannot address all of our infrastructure needs, significant changes in existing programs and policy will attract private sector investment.

The American Energy and Infrastructure Jobs Act builds upon and improves the successful Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program. The measure dedicates $1 billion per year to the TIFIA program resulting in $10 billion in low interest loans to fund at least $20 billion per year in transportation projects. Providing additional funding for TIFIA will help meet demand for credit assistance for transportation projects and enable increased leveraging of Highway Trust Fund dollars with state, local and private-sector funding.

The legislation does not create a new National Infrastructure Bank, but rather builds upon existing state infrastructure banks. States will be encouraged to create and capitalize state infrastructure banks to provide loans for transportation projects at the state and local level. The percentage of federal highway funding that a state can dedicate to a state infrastructure bank will be increased from 10 percent to 15 percent and states will receive a specific amount of funding that can only be used to fund state infrastructure banks.

H.R. 7 also calls for unlocking existing revenue sources that are not being fully utilized for their intended purpose. Under this initiative, existing lanes on the Interstate Highway System remain toll-free; however, states will have the ability to toll new capacity on the Interstate System. States will also have greater flexibility to toll non-Interstate highways.

The Harbor Maintenance Trust Fund is supported by cargo fees and is critical for dredging and other improvements to federal harbor channels. Despite growing maritime infrastructure needs, these funds are not being fully utilized to maintain our ports. H.R. 7 encourages using all the amounts collected each year in the Harbor Maintenance Trust Fund for their intended purpose of maintaining safe and adequate harbor channels for the Nation's waterborne transportation system.

H.R. 7 improves the underutilized Rail Rehabilitation and Improvement Financing (RRIF) Program by creating a faster and more predictable application process and allowing more flexibility in loan terms. While RRIF was created to allow for loans and loan guarantees to help improve the nation's rail infrastructure, the slow process for approval and constricting terms have stunted its potential. H.R. 7 ensures the program is able to help address the nation's growing rail infrastructure needs at a time when the economy is continuing its recovery.

The American Energy and Infrastructure Jobs Act will allow federal dollars to work more effectively and generate additional revenue for infrastructure improvements and job creation. By more effectively leveraging available resources, we can achieve more infrastructure and employment benefits per dollar invested.

FEDERAL HIGHWAY PROGRAM

Fifty years ago the goal of the Federal Highway Program was to fund road construction projects that facilitated interstate travel and interstate commerce. After the Interstate Highway System was largely completed, the Federal Highway Program began to fund a broader range of projects. Today there are more than 50 programs run by the Federal Highway Administration that fund projects ranging from graffiti removal to planting of wildflowers.

The American Energy and Infrastructure Jobs Act eliminates approximately 40 Federal Highway Administration programs and focuses our limited federal resources on projects that have regional or national significance. Federal approvals and processes are streamlined to ensure projects are expedited, and administrative overhead can be reduced through programmatic reform, increasing the amount of funding available for projects.

State Flexibility and Accountability

Under the legislation, states maintain the opportunity to fund the broad range of eligible projects under the current Surface Transportation and Congestion Mitigation and Air Quality programs, but they are not required to spend a specific amount of funding on specific types of projects, such as transportation museums or landscaping. More than 90 percent of Federal Highway Program funding will be distributed through formula programs to state departments of transportation, allowing state and local transportation officials to prioritize projects rather than bureaucrats in Washington, D.C. States are provided the maximum amount of flexibility in choosing what projects to fund with their federal highway dollars, but will be held accountable for those choices through performance measures and transparency requirements.

A Focus on the National Highway System

The new Federal Highway Program focuses primarily on the National Highway System—a 160,000-mile system of roads that includes the Interstate Highway System and other roads important to the nation's economy, defense and freight mobility. Under H.R. 7, approximately half of the funding provided for the Federal Highway Program is directed to funding projects on the National Highway System.

Highway Safety

The legislation doubles the amount of funding dedicated to the Highway Safety Improvement Program. This program funds road infrastructure projects designed to improve safety and can fund projects on virtually any road.

Improved Leveraging of Resources

The bill better leverages our limited federal resources, including through the TIFIA program and the existing state infrastructure bank structure. This approach keeps the federal financing bureaucracy at a minimum and maximizes states' financial capabilities.

HIGHWAY AND MOTOR CARRIER SAFETY

Recent years have seen a steady decline in highway fatalities, from 43,510 in 2005 to 32,885 in 2010. There has also been a dramatic reduction in severe and fatal crashes involving large trucks and buses, with fatalities from crashes dropping from 5,539 in 2005 to 3,944 in 2010.

The American Energy and Infrastructure Jobs Act builds upon the progress made in recent years and ensures continued safety improvements by incorporating performance measures into each state's highway safety plan. Under the bill, each state is required to establish quantifiable targets for each performance measure. This will help states target the most effective highway and motor carrier safety activities and hold states accountable for how they spend their federal funding.

National Highway Traffic Safety Administration (NHTSA) Safety Programs

H.R. 7 focuses funding on NHTSA's highway safety grant program that distributes money to states through a formula for highway safety activities. It clarifies that states can use highway safety grant funding for initiatives to increase seat belt use, prevent impaired driving, and improve motorcycle safety. In addition, the bill changes the distribution formula for NHTSA's highway safety grant program so states that have laws and programs designed to increase seat belt use, prevent impaired driving, or improve the safety of young drivers receive more funding. Finally, the bill holds states accountable by requiring them to spend federal funding in areas where they are not meeting performance goals.

Motor Carrier Safety Programs

H.R. 7 ensures that federal regulations keep unsafe trucks and buses off the road while allowing companies that operate in a safe and responsible manner to continue to do so. Specifically, the bill prevents companies that have been shut down for violating safety standards from reincarnating as new carriers to avoid compliance. It consolidates grant programs and institutes new performance measures to focus state motor carrier safety efforts on reducing the number of crashes and fatalities involving large trucks and buses. It establishes annual inspection programs for buses. The bill also requires the Secretary to establish a clearinghouse of positive drug and alcohol test results by commercial drivers, and prescribe regulations to establish minimum training requirements for commercial drivers.

FEDERAL TRANSIT PROGRAMS

The American Energy and Infrastructure Jobs Act focuses on federal transit policies and programs that most effectively contribute to public transportation services that meet the needs of commuters, transit-dependent individuals, and occasional transit riders.

Private Sector Partnering

H.R. 7 removes current barriers that prevent the private sector from offering public transportation services. It provides incentives to vanpools and intercity bus operators to participate in federally

supported transit services; requires that private intercity and charter bus operators be given reasonable access to federally-funded transit facilities; and encourages and rewards public-private partnerships when building new rail transit systems.

Focuses on Formula Programs

The bill repeals discretionary programs that are unpredictable and not transparent, and focuses available funding on formula programs that provide stable and predictable funding to states and local transit agencies. In addition, it increases the percentage of available formula funds for transit programs that benefit suburban and rural areas, and programs that support transit services for the elderly, disabled, and transit-dependent.

Streamlines and Simplifies

Under H.R. 7, three separate human service transportation programs are consolidated into one. In addition, the bill streamlines the New Starts and Small Starts competitive grant program, cutting project development time in half.

Improves Transit Safety

The legislation strengthens the rail transit safety oversight program without creating a new federal transit safety bureaucracy.

PASSENGER AND FREIGHT RAIL TRANSPORTATION

Government can do more to effectively leverage federal investments in freight and passenger rail infrastructure. The American Energy and Infrastructure Jobs Act streamlines the project delivery process, reduces regulatory burdens, and promotes accountability and responsibility while maintaining the highest commitment to rail safety.

Leveraging Federal Investments

H.R. 7 creates a faster and more predictable application process for Rail Rehabilitation and Improvement Financing (RRIF) loans. In addition, it increases access to the RRIF program by providing more flexible loan terms.

Streamlining Project Delivery

The legislation expedites project review, which reduces costs to project sponsors. Specifically, it increases coordination among federal agencies and allows for review of projects concurrently; creates greater certainty by establishing hard deadlines for agency action and decisions; delegates more decision-making authority to the states; and expands classes of projects excluded from extensive environmental review.

Reducing Regulatory Burdens

The bill increases the opportunity for the successful implementation for Positive Train Control (PTC) by changing the implementation deadline and allowing for technology neutral solutions, while maintaining our commitment to safety. It also improves the rulemaking process at the Federal Railroad Administration to protect against overly-burdensome regulations and red tape.

Reforming Amtrak

H.R. 7 places limits on Amtrak's use of federal funds to focus it on providing better service. It cuts Amtrak's operating subsidy by 25 percent in FY 2012 and 2013. In addition, the bill clarifies the Amtrak Inspector General's authority to protect federal funds against fraud, waste, and abuse. Finally, it requires Amtrak's money-losing, poorly managed food and beverage services to be competitively bid.

Promoting Accountability and Saving Money

The legislation eliminates the congestion grants set-aside program in the Intercity Passenger Rail grants program, currently authorized at $100 million per year in FY 2012 and 2013. It also terminates the Capital Grants program for Class II and Class III Railroads, authorized at $50 million per year.

HAZARDOUS MATERIALS TRANSPORTATION

The American Energy and Infrastructure Jobs Act advances safety, efficiency, and accountability in the transportation of hazardous materials and promotes the nation's economic health through certainty and uniformity in the regulation of those materials.

Promotes Regulatory Certainty and Transparency

H.R. 7 reforms the rulemaking process to be less burdensome on industry and ensure that economic effects are properly taken into account. The bill establishes regulatory certainty through notice and comment rulemaking. It promotes efficiency by incorporating safe special permits into regulations. Finally, it requires a program review to improve the administration of motor carrier permitting.

Creates Uniformity to Grow Business and the Economy

The legislation eliminates differing state requirements for notification, enforcement, and permitting that hinder the free-flow of commerce and do not increase safety levels. The bill also establishes uniform training and enforcement among the states; ensures the nation's expert on hazardous materials transportation remains its international representative; eliminates overlapping federal jurisdiction; and protects economic growth by preempting unreasonable burdens on commerce.

Reduces Regulatory Burdens

The bill bans certain regulations whose cost-effectiveness is unproven. It ensures that no new user fees will be imposed on the industry, and that penalties are fairly imposed on those entities responsible for violations. It also eliminates unnecessary package inspections that burden commerce.

Promotes Accountability and Saves Money

H.R. 7 allows flexibility and requires accountability in managing hazardous materials transportation grant programs. In addition, it eliminates wasteful earmarks.

WATERBORNE TRANSPORTATION

Waterborne trade at our nation's ports is vital to the American economy, and millions of jobs throughout the country are dependent upon the commercial shipping industry. The American Energy and Infrastructure Jobs Act encourages funds collected for the maintenance of our nation's harbors to be invested for that purpose.

Calls for Dedicated Funds to Go to Infrastructure Programs

The Harbor Maintenance Trust Fund (HMTF) provides funds for the United States Army Corps of Engineers (Corps) to carry out the dredging of navigation channels to their authorized depths and widths. The HMTF is based upon a user fee collected from shippers that utilize the nation's coastal ports. Unfortunately, we do not invest all of these fees back into harbor maintenance. The FY 2011 HMTF equity grew 13.7% from FY 2010 to $6.42 billion. Total receipts increased 17.3% to $1.6 billion. Yet, only $791.4 million was expended by the Corps, a decrease from FY 2010's $793 million. This legislation calls for HMTF expenditures to be tied to revenues and spent for harbor maintenance as intended.

LEGISLATIVE HISTORY

On January 31, 2012, Chairman John L. Mica and Subcommittee Chairman John J. Duncan, Jr. introduced H.R. 7, the American Energy and Infrastructure Jobs Act of 2012. On February 2, 2012, the Committee on Transportation and Infrastructure met in open session to consider the bill. During the Committee's consideration of the bill the following actions were taken:

The following motion was defeated by recorded vote:

A motion offered by Mr. Rahall to table the bill.

The following amendments were approved by recorded vote:

An amendment offered by Mr. Mica designated 088 was approved by recorded vote, after being amended by voice vote by an amendment offered by Mr. Defazio to strike a provision requiring a public referendum be held to approve the financing mechanism for certain transit new start projects;

An amendment offered by Mr. Barletta designated 024; and

An amendment offered by Mr. Denham designated 041.

The following amendments were approved by voice vote:

An amendment offered by Mr. Graves designated 057;

An amendment offered by Ms. Richardson designated 091;

An amendment offered by Ms. Brown (for Mr. Sires) designated Sires Amendment 014;

An amendment offered by Mr. Cohen designated 071;

An amendment offered by Mr. Cravaack designated 033;

An amendment offered by Mr. Shuler designated 005;

An amendment offered by Mr. Rahall designated 032;

An amendment offered by Mr. Bucshon designated 009;

An amendment offered by Mr. Cravaack designated 034;

An amendment offered by Mr. Boswell designated 027;

An amendment offered by Mr. Carnahan designated 054;

An amendment offered by Mr. Landry designated 063;
An amendment offered by Ms. Richardson designated 085;
An amendment offered by Mr. Defazio designated 065;
An amendment offered by Mr. Defazio (modified) designated 067;
An amendment offered by Ms. Brown designated 029 was approved by voice vote, after being amended by an amendment offered by Mr. Mica regarding compliance with court orders, which was also approved by voice vote; and
An amendment offered by Mr. Carnahan designated 058 was approved by voice vote, after being amended by an amendment offered by Mr. Mica designated 087, which was also approved by voice vote.

The following amendments were approved en bloc by unanimous consent:

An amendment by Ms. Richardson designated 086;
An amendment by Mr. Carnahan designated 052;
An amendment by Mr. Cohen designated 072;
An amendment by Mr. Lipinski designated 049; and
An amendment by Mr. Capuano designated 029.

The following amendments were approved en bloc by unanimous consent:

An amendment by Mr. Lipinski designated 046;
An amendment by Mr. Altmire designated 011;
and An amendment by Ms. Norton designated 105.

The following amendments were defeated by recorded vote:

An amendment offered by Mr. Cummings, Ms. Johnson, Ms. Brown, Ms. Norton, and Ms. Edwards designated 042;
An amendment offered by Mr. Petri, Mr. T. Johnson, and Mr. Lipinski designated 019;
An amendment offered by Mr. Rahall designated 031;
An amendment offered by Mr. Defazio designated 064;
An amendment offered by Mr. Capuano and Mr. Nadler designated 025;
An amendment offered by Mr. Carnahan designated 051;
An amendment offered by Ms. Napolitano designated 010;
An amendment offered by Ms. Brown designated 021;
An amendment offered by Ms. Edwards designated 018;
An amendment offered by Mr. Carnahan designated 060;
An amendment offered by Mr. Nadler designated 106; and
An amendment offered by Mr. Farenthold designated 014.

The following amendments were defeated by voice vote:

An amendment offered by Mr. Capuano designated 028;
An amendment offered by Ms. Edwards designated 021;
An amendment offered by Ms. Richardson amending section 1108;
An amendment offered by Ms. Richardson designated 087;
An amendment offered by Mr. Cohen (for Mr. Sires) designated as Sires Amendment 012;
An amendment to the Cravaack Amendment 034 offered by Mr. Rahall regarding Federal-aid Highways Buy America provisions;
An amendment offered by Ms. Norton designated 103;

An amendment offered by Mr. Cummings designated 046;
An amendment offered by Ms. Richardson regarding the prevention of unreasonable fees;
An amendment offered by Ms. Richardson designated 095;
An amendment offered by Mr. Carnahan designated 055;
An amendment offered by Mr. G. Miller designated 031;
An amendment offered by Mr. Lipinski designated 052;
An amendment offered by Mr. Nadler designated 094;
An amendment offered by Ms. Edwards designated 004;
An amendment offered by Mr. Cohen designated 074;
An amendment offered by Mr. Crawford regarding the transportation of horses;
An amendment offered by Ms. Brown designated 017;
An amendment offered by Mr. Nadler designated 097;
An amendment offered by Mrs. Napolitano (modified) regarding Harbor Maintenance Trust Fund expenditures;
An amendment offered by Mr. Nadler designated 093;
An amendment offered by Ms. Richardson regarding the Harbor Maintenance Trust Fund;
An amendment offered by Ms. Richardson designated 094;
An amendment offered by Ms. Hirono designated 052;
An amendment offered by Ms. Hirono designated 050;
An amendment offered by Ms. Hirono designated 051;
An amendment offered by Ms. Richardson designated 098;
An amendment offered by Mr. Carnahan designated 057;
An amendment offered by Ms. Edwards designated 022; and
An amendment to the Edwards Amendment 022 offered by Ms. Johnson to strike "shall" and insert "may".

The following amendments were offered en bloc and defeated by voice vote:

An amendment by Mr. Bishop designated 005;
An amendment by Mr. Bishop designated 006; and
An amendment by Mr. Bishop designated 007.

The following amendments were offered en bloc and defeated by unanimous consent:

An amendment by Ms. Brown designated 026; and
An amendment by Ms. Brown designated 031.

The following amendments were withdrawn:

An amendment by Ms. Richardson designated 093;
An amendment by Mr. Lipinski designated 050;
An amendment by Mr. Farenthold designated 014;
An amendment by Ms. Edwards designated 019;
An amendment by Ms. Edwards designated 020;
An amendment by Ms. Edwards designated 003;
An amendment by Ms. Richardson regarding streamlining environmental reviews;
An amendment by Mr. Capuano designated 024;
An amendment by Mr. DeFazio designated 066;
An amendment by Mr. Lipinski designated 051;
An amendment by Ms. Brown designated 028;
An amendment by Mr. Bishop designated 075;

An amendment by Mr. Cohen, Ms. Edwards, and Ms. Richardson designated 070;
An amendment by Mr. Carnahan designated 056;
An amendment by Mr. Bishop designated 076;
An amendment by Mr. Bishop designated 070;
An amendment by Mr. Nadler designated 102;
An amendment by Ms. Johnson designated 048;
An amendment by Mr. DeFazio designated 059;
An amendment by Mr. DeFazio designated 069;
An amendment by Mr. Boswell designated 028; and
An amendment by Mr. Boswell designated 878.

The following amendments were not offered:

An amendment by Ms. Richardson designated 096.

HEARINGS

The Committee on Transportation and Infrastructure held five field hearings on surface transportation reauthorization as follows: (1) on February 14, 2011, in Beckley, WV; (2) on February 19, 2011, in Columbus, OH; (3) on February 23, 2011, in Los Angeles, CA; (4) on February 24, 2011, in Oklahoma City, OK; and (5) on March 14, 2011, in Maitland, FL. In addition, the Full Committee held a legislative hearing on motorcoach safety on June 13, 2011.

In addition to the listed hearings and in order to gather specific policy proposals for reauthorization of the federal surface transportation programs, the Committee, pursuant to the belief that the best ideas come from outside of Washington, D.C., and that state and local governments know their needs best, held multiple listening sessions across the country as follows: (1) on February 14, 2011, in Charleston, WV; (2) on February 19, 2011, in Indianapolis, IN; (3) on February 20, 2011, in Dupage, IL; (4) on February 21, 2011, in Vancouver, WA; (5) on February 22, 2011, in Fresno, CA; (6) on February 24, 2011, in Jonesboro, AR; (7) on February 25, 2011, in Millington, TN; (8) on March 24, 2011, in Rochester, NY; (9) on March 24, 2011, in Cortland, NY; (10) on March 25, 2011, in Scranton, PA; and (11) on March 25, 2011, in King of Prussia, PA.

The Subcommittee on Highways and Transit held four legislative hearings as follows: (1) on February 15, 2011, a hearing was held to receive testimony related to improving the existing laws and regulations governing project delivery in order to accelerate the delivery process for surface transportation projects and save the American taxpayer money; (2) on March 29, 2011 and March 30, 2011, a two-day hearing was held to receive testimony from the surface transportation community regarding reauthorization issues; (3) on April 5, 2011, a hearing was held to receive testimony from Members of Congress regarding surface transportation reauthorization; and (4) on October 12, 2011, a hearing was held to examine the administration's infrastructure bank proposal.

The Subcommittee on Railroads, Pipelines, and Hazardous Materials held five legislative hearings as follows: (1) on February 17, 2011, a hearing was held to receive testimony on the Railroad Rehabilitation and Improvement Financing Program; (2) on March 11, 2011, a hearing was held to receive testimony regarding intercity passenger rail; (3) March 17, 2011, a hearing was held to receive

testimony regarding implementation of the Rail Safety Improvement Act and Positive Train Control Systems; (4) on April 7, 2011, a hearing was held to receive testimony regarding reducing the regulatory burdens in railroad and hazardous materials transportation programs; and (5) on April 12, 2011, a hearing was held to receive testimony regarding reauthorization of the hazardous materials transportation programs of the Pipeline and Hazardous Materials Safety Administration.

The Subcommittee on Water Resources and Environment held two legislative hearings as follows: (1) on July 8, 2011, a hearing was held to receive testimony on H.R. 104, the Realize America's Maritime Promise Act; and (2) on October 26, 2011, a hearing was held to receive testimony regarding the economic importance of seaports.

COMMITTEE CONSIDERATION

On February 2, 2012, the Committee met in open session and ordered the bill, as amended, favorably reported to the House by roll call vote with a quorum present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were 17 record votes taken during the Committee's consideration of H.R. 7.

The first record vote was on a motion to table the bill offered by Mr. Rahall.

The next 15 record votes were on amendments offered by: Mr. Mica; Mr. Barletta; Mr. Denham; Mr. Cummings, Ms. Johnson, Ms. Brown, Ms. Norton, and Ms. Edwards; Mr. Petri, Mr. T. Johnson, and Mr. Lipinski; Mr. Rahall; Mr. DeFazio; Mr. Capuano and Mr. Nadler; Mr. Carnahan (who offered two amendments); Mrs. Napolitano; Ms. Brown; Ms. Edwards; Mr. Nadler; and Mr. Farenthold.

The last record vote was on a motion offered by Mr. Duncan to report the bill as amended to the House with a favorable recommendation. The bill, as amended, was reported to the House with a favorable recommendation after a record vote which was disposed of as follows:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Ordering H.R. 7 Reported, as amended
Vote: 29-24

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			*Mr. Larsen*		X	
Mr. Rahall		X		*Mr. Lipinski*		X	
Mr. Altmire		X		Mr. LoBiondo	X		
Mr. Barletta	X			Mr. Long	X		
Mr. Bishop		X		Mr. Meehan	X		
Mr. Boswell		X		*Mr. Michaud*		X	
Ms. Brown		X		Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)	X		
Ms. Capito	X			*Mr. Nadler*		X	
Mr. Capuano		X		*Mrs. Napolitano*		X	
Mr. Carnahan		X		*Ms. Norton*		X	
Mr. Coble				Mr. Petri		X	
Mr .Cohen		X		Mr. Ribble	X		
Mr. Costello		X		*Ms. Richardson*		X	
Mr. Cravaack	X			Ms. Schmidt	X		
Mr. Crawford	X			*Mr. Shuler*			
Mr. Cummings		X		Mr. Shuster	X		
Mr. DeFazio		X		*Mr. Sires*			
Mr. Denham	X			Mr. Southerland	X		
Mr. Duncan	X			*Mr. Walz*		X	
Ms. Edwards		X		Mr. Young			
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann	X						
Mr. Gibbs	X						
Mr. Graves	X						
Mr. Guinta	X						
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren	X						
Mr. Hunter	X						
Mr. Johnson (IL)							
Ms. Johnson (TX)		X					
Mr. Landry	X						
Mr. Lankford	X						

The Committee disposed of the following amendments by record vote:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Cummings Amendment 42 to H.R. 7
Vote: 20-30

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*			
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long			
Mr. Bishop	X			Mr. Meehan			
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown				Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*			
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)		X					
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Petri Amendment 19 to H.R. 7
Vote: 27-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri	X		
Mr .Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)	X						
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Rahall Amendment 31 to H.R. 7
Vote: 22-32

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire				Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan			
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young		X	
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)		X					
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Barletta Amendment 24 to H.R. 7
Vote: 33-22

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta	X			Mr. Long		X	
Mr. Bishop	X			Mr. Meehan	X		
Mr. Boswell	X			*Mr. Michaud*		X	
Ms. Brown	X			Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)	X		
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio				*Mr. Sires*			
Mr. Denham	X			Mr. Southerland		X	
Mr. Duncan	X			*Mr. Walz*		X	
Ms. Edwards	X			Mr. Young		X	
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves	X						
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris	X						
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren	X						
Mr. Hunter		X					
Mr. Johnson (IL)	X						
Ms. Johnson (TX)	X						
Mr. Landry							
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: DeFazio Amendment 64 to H.R. 7
Vote: 23-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris							
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden							
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Capuano/Nadler Amendment 25 to H.R. 7
Vote: 24-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan	X		
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen				Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford	X						

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Carnahan Amendment 51 to H.R. 7
Vote: 23-30

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen				Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Napolitano Amendment 10 to H.R. 7
Vote: 8-40

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*		X	
Mr. Rahall		X		*Mr. Lipinski*			
Mr. Altmire		X		Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop		X		Mr. Meehan		X	
Mr. Boswell		X		*Mr. Michaud*		X	
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*			
Mr. Capuano				*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen				Mr. Ribble		X	
Mr. Costello				*Ms. Richardson*		X	
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio				*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*		X	
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden		X					
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Denham Amendment 41 to H.R. 7
Vote: 31-22

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			*Mr. Larsen*		X	
Mr. Rahall		X		*Mr. Lipinski*			
Mr. Altmire		X		Mr. LoBiondo	X		
Mr. Barletta	X			Mr. Long	X		
Mr. Bishop		X		Mr. Meehan	X		
Mr. Boswell		X		*Mr. Michaud*		X	
Ms. Brown		X		Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)	X		
Ms. Capito	X			*Mr. Nadler*		X	
Mr. Capuano		X		*Mrs. Napolitano*		X	
Mr. Carnahan		X		*Ms. Norton*		X	
Mr. Coble	X			Mr. Petri	X		
Mr .Cohen		X		Mr. Ribble	X		
Mr. Costello		X		*Ms. Richardson*		X	
Mr. Cravaack	X			Ms. Schmidt	X		
Mr. Crawford	X			*Mr. Shuler*			
Mr. Cummings		X		Mr. Shuster	X		
Mr. DeFazio		X		*Mr. Sires*			
Mr. Denham	X			Mr. Southerland	X		
Mr. Duncan	X			*Mr. Walz*		X	
Ms. Edwards		X		Mr. Young			
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann	X						
Mr. Gibbs	X						
Mr. Graves	X						
Mr. Guinta	X						
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren	X						
Mr. Hunter	X						
Mr. Johnson (IL)							
Ms. Johnson (TX)		X					
Mr. Landry	X						
Mr. Lankford	X						

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: C. Brown Amendment 21 to H.R. 7
Vote: 24-30

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler	X						
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Edwards Amendment 18 to H.R. 7
Vote: 23-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire		X		Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan				*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves							
Mr. Guinta		X					
Mr. Hanna	X						
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Nadler Amendment 96 to H.R. 7
Vote: 25-27

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan	X		
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble				Mr. Petri		X	
Mr .Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt	X		
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio				*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna	X						
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Carnahan Amendment 60 to H.R. 7
Vote: 26-28

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan	X		
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble				Mr. Petri		X	
Mr .Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*	X		
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Nadler Amendment 106 to H.R. 7
Vote: 23-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble				Mr. Petri		X	
Mr .Cohen	X			Mr. Ribble		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford				*Mr. Shuler*			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Farenthold Amendment 14 to H.R. 7
Vote: 15-38

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			*Mr. Larsen*		X	
Mr. Rahall		X		*Mr. Lipinski*		X	
Mr. Altmire		X		Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long	X		
Mr. Bishop		X		Mr. Meehan		X	
Mr. Boswell		X		*Mr. Michaud*		X	
Ms. Brown		X		Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)	X		
Ms. Capito		X		*Mr. Nadler*		X	
Mr. Capuano		X		*Mrs. Napolitano*		X	
Mr. Carnahan		X		*Ms. Norton*		X	
Mr. Coble				Mr. Petri	X		
Mr .Cohen		X		Mr. Ribble		X	
Mr. Costello		X		*Ms. Richardson*		X	
Mr. Cravaack	X			Ms. Schmidt		X	
Mr. Crawford	X			*Mr. Shuler*			
Mr. Cummings		X		Mr. Shuster		X	
Mr. DeFazio		X		*Mr. Sires*			
Mr. Denham	X			Mr. Southerland		X	
Mr. Duncan	X			*Mr. Walz*		X	
Ms. Edwards		X		Mr. Young			
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann	X						
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren		X					
Mr. Hunter	X						
Mr. Johnson (IL)							
Ms. Johnson (TX)		X					
Mr. Landry	X						
Mr. Lankford		X					

The Committee disposed of the motion to table by record vote:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: 2/2/2012 Presiding: Mica
Amendment or matter voted on: Motion to table Rahall motion to postpone
Vote: 28-21

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			*Mr. Larsen*		X	
Mr. Rahall		X		*Mr. Lipinski*		X	
Mr. Altmire		X		Mr. LoBiondo	X		
Mr. Barletta	X			Mr. Long			
Mr. Bishop		X		Mr. Meehan	X		
Mr. Boswell		X		*Mr. Michaud*		X	
Ms. Brown				Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)			
Ms. Capito	X			*Mr. Nadler*		X	
Mr. Capuano		X		*Mrs. Napolitano*		X	
Mr. Carnahan		X		*Ms. Norton*		X	
Mr. Coble	X			Mr. Petri	X		
Mr .Cohen				Mr. Ribble	X		
Mr. Costello		X		*Ms. Richardson*		X	
Mr. Cravaack	X			Ms. Schmidt	X		
Mr. Crawford	X			*Mr. Shuler*			
Mr. Cummings		X		Mr. Shuster	X		
Mr. DeFazio		X		*Mr. Sires*			
Mr. Denham	X			Mr. Southerland	X		
Mr. Duncan	X			*Mr. Walz*		X	
Ms. Edwards		X		Mr. Young			
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann	X						
Mr. Gibbs	X						
Mr. Graves	X						
Mr. Guinta	X						
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren	X						
Mr. Hunter	X						
Mr. Johnson (IL)							
Ms. Johnson (TX)		X					
Mr. Landry							
Mr. Lankford	X						

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 7, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 9, 2012.

Hon. JOHN L. MICA,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 7, the American Energy and Infrastructure Jobs Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 7—American Energy and Infrastructure Jobs Act of 2012

Summary: H.R. 7 would extend the authority for the surface transportation programs administered by the Federal-Aid Highway Administration (FHWA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Federal Motor Carrier Safety Administration (FMCSA), and certain programs administered by the Federal Rail Administration (FRA).

CBO estimates that enacting the bill would provide total contract authority (the authority to incur obligations in advance of appropriation acts) of $228 billion over the 2012–2016 period. Contract authority is a form of budget authority; the use of that authority for transportation programs has traditionally been controlled by provisions in appropriation acts that limit the amount of contract authority that may be obligated (those provisions are known as obligation limitations). Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing its baseline of future contract authority for transportation programs,

CBO assumes that the contract authority provided by the bill for 2016, the last year of the authorization, would continue at the same rate in each of the following years. Using that assumption, CBO estimates that enacting the bill would result in baseline contract authority of $560 billion over the 2012–2022 period. Relative to the amounts of contract authority for surface transportation programs currently projected in CBO's baseline, that funding level represents an increase of $7 billion for the 2012–2017 period and $15.3 billion over the 2012–2022 period.[1]

H.R. 7 would expand federal credit programs administered by the Department of Transportation (DOT) that provide direct loans and loan guarantees. CBO estimates the changes to those programs authorized by the bill would increase direct spending by $110 million over the 2012–2017 period and by $300 million over the 2012–2022 period; therefore, pay-as-you-go procedures apply.

Enacting H.R. 7 could result in the collection of additional civil penalties because it would increase the amount that DOT could impose for violating certain motor carrier and hazardous materials safety regulations. Penalties are recorded in the budget as revenues and deposited in the U.S. Treasury. CBO estimates that any additional penalty collections under the bill would be insignificant.

For this estimate, CBO assumes that most spending for the surface transportation program will continue to be controlled by obligation limitations set in appropriation acts. The obligation limitations for 2012 were enacted in the Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112–55). H.R. 7 would not amend the obligation limitations that have already been enacted for 2012. The bill would authorize obligation limitations totaling $202 billion over the 2013–2016 period.

The bill also would authorize appropriations of $8.4 billion for other surface transportation programs administered by DOT, including transit, rail, and hazardous materials programs. Assuming appropriation of the estimated obligation limitation for 2013–2016, the other amounts specified in the legislation, and amounts estimated to be necessary, CBO estimates that implementing the bill would add $170 billion in discretionary costs over the 2012–2017 period.

CBO has determined that the nontax provisions of H.R. 7 contain intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) on manufacturers, owners, and operators of motorcoaches and on driving schools. The bill would impose additional intergovernmental mandates on states and would preempt state, local, and tribal laws. The bill also would impose private-sector mandates on owners and operators of commercial vehicles, brokers for motor carriers, coordinators of freight shipments, and other private entities. Because of uncertainty about the number of entities affected and the scope of future regulations—particularly those governing motorcoach safety—CBO cannot determine whether the aggregate cost of the mandates in the bill would exceed the annual thresholds established in UMRA for

[1] The Surface and Air Transportation Programs Extension Act of 2011 (Public Law 112–30) provided about $25 billion in contract authority for programs funded by HR. 7 through March 31, 2012. Following baseline construction rules, CBO assumes that this funding would continue at the same rate for the remainder of fiscal year 2012. H.R. 7 would also provide $25 billion for the second half of fiscal year 2012. As a result, contract authority provided by the bill for 2012 would not increase compared to CBO's baseline.

intergovernmental or private-sector mandates ($73 million and $146 million in 2012, respectively, adjusted annually for inflation).

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 7 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—						
	2012	2013	2014	2015	2016	2017	2012–2017
CHANGES IN DIRECT SPENDING							
DOT Contract Authority							
Budget Authority[a]	0	1,035	1,290	1,345	1,665	1,665	7,000
Estimated Outlays	0	0	0	0	0	0	0
Expansion of DOT Loan and Loan Guarantee Programs[b]							
Estimated Budget Authority	0	22	22	22	22	32	120
Estimated Outlays	0	15	20	21	22	32	110
Total Changes.							
Estimated Budget Authority	0	1,057	1,312	1,367	1,687	1,697	7,120
Estimated Outlays	0	15	20	21	22	32	110
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Spending from the Highway Trust Fund							
Estimated Obligation Limitation[c]	0	50,124	50,379	50,434	50,758	0	201,695
Estimated Outlays	0	12,551	32,196	40,161	43,807	35,568	164,283
Federal Transit Administration							
Authorization Level	0	2,098	2,098	2,098	2,098	0	8,392
Estimated Outlays	0	329	885	1,295	1,589	1,494	5,592
Bridge and Tunnel Inspection							
Estimated Authorization Level	0	15	15	0	0	0	30
Estimated Outlays	0	2	8	10	5	3	28
Other Authorized Programs							
Authorization Level	0	90	39	39	39	0	207
Estimated Outlays	0	37	60	47	42	10	196
Total Changes							
Estimated Budgetary Resources	0	52,327	52,531	52,571	52,895	0	210,324
Estimated Outlays	0	12,919	33,149	41,513	45,443	37,075	170,099

Notes: DOT = Department of Transportation.

[a] CBO estimates that H.R. 7 would increase budget authority by $15.3 billion above the amounts assumed in CBO's baseline for surface transportation programs over the 2012–2022 period.

[b] CBO estimates that expanding DOT's loan programs would cost $300 million over the 2012–2022 period.

[c] Estimated discretionary outlays reflect use of funds under the 2013–2016 obligation limitations estimated by CBO. (Outlays stemming from additional contract authority for years after 2016 would be authorized in future legislation.)

Basis of Estimate: For this estimate, CBO assumes that H.R. 7 will be enacted before the current authorization for surface transportation programs expires on March 31, 2012, that the authorized and necessary amounts will be provided for each year in appropriation acts, and that outlays will follow the historical rate of spending for transportation programs.

Direct spending

Department of Transportation Contract Authority. H.R. 7 would increase the amount of budget authority (in the form of contract authority) that is projected in CBO's baseline to be available for DOT's surface transportation programs over the 2012–2022 period. Because spending of the contract authority for transportation programs is expected to be controlled by provisions in future appropriation acts, there would be no impact on direct spending expenditures from this provision.

Over the 2012–2016 period, H.R. 7 would provide $228 billion in contract authority for the following programs:

- $185 billion for programs administered by FHWA;
- $38 billion for programs administered by FTA;
- $3 billion for programs administered by NHTSA; and
- $2 billion for programs administered by FMCSA.

About $25 billion in contract authority has already been provided through March 31, 2012. H.R. 7 would continue funding surface transportation programs at the same rate for the rest of the year. That level is consistent with the assumption in CBO's baseline that contract authority provided for part of a year continues at the same rate for the full year.

Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing the baseline, CBO assumes that contract authority provided by the bill for 2016 ($51.2 billion), the last year of the authorization, would continue at the same level in each of the following years. Using that assumption, CBO estimates that enacting the bill would result in baseline contract authority totaling about $560 billion over the 2012–2022 period. That funding level represents an increase in budget authority of $7 billion over the 2012–2017 period and $15.3 billion over the 2012–2022 period above the amounts of contract authority for surface transportation programs currently projected in CBO's baseline.

Expansion of DOT Loan and Loan Guarantee Programs. H.R. 7 would amend and expand two loan and loan guarantee programs within the DOT: the Transportation Infrastructure Finance and Innovation Program (TIFIA) provides credit assistance for certain large transportation projects and the Railroad Rehabilitation and Improvement Financing (RRIF) Program provides loans to develop railroad infrastructure. CBO estimates that those provisions would increase direct spending by $110 million over the 2012–2017 period and $300 million over the 2012–2022 period.

The budgetary treatment of the TIFIA and RRIF programs is governed by the Federal Credit Reform Act (FCRA) of 1990, which requires an appropriation to cover the subsidy and administrative costs associated with federal direct loans and loan guarantees. The subsidy cost is the estimated long-term cost to the government of a loan or loan guarantee, calculated on a net-present-value basis, excluding administrative costs. Administrative costs, which are recorded on a cash basis, include activities related to making, servicing, and liquidating loans as well as overseeing the performance of lenders when a federal guarantee of a private loan is made.

TIFIA Expansion. In recent years, TIFIA loans have had an average estimated subsidy rate of about 10 percent. That rate reflects the risk that such transportation projects may default on a loan from the government. (The subsidy rate of a federal loan reflects the subsidy cost for each dollar of the face value of the loan. For example, a $10 million TIFIA loan with an estimated 10 percent subsidy rate would have a cost in the federal budget of $1 million in the year that the loan is made.)

H.R. 7 would:

- Provide budget authority of $1 billion per year over the 2013–2016 period (in the form of contract authority) to pay for the subsidy cost of TIFIA loans and guarantees;
- Increase the share of total project costs that TIFIA loans and guarantees can cover from 33 percent to 49 percent;

- Under certain conditions, authorize prospective borrowers to pay DOT an amount equivalent to the estimated subsidy cost of their approved TIFIA loan or guarantee. (This authority is referred to here as a borrower-financed credit subsidy.)

If no funds were provided for TIFIA or if the funds authorized by H.R. 7 were fully obligated, section 1201 would authorize DOT to accept payments from transportation project sponsors that are equivalent to the estimated federal subsidy cost of those loans or guarantees. CBO estimates that enacting those provisions would increase direct spending by $90 million over the 2017–2022 period, when we expect that the funds appropriated by the bill for subsidy costs would be fully obligated. That amount reflects our estimate of the future demand for TIFIA loans and our view that borrower-financed credit subsidies are likely to result in a net cost to the government.[2]

CBO expects that, under H.R. 7, the demand for TIFIA credit assistance would increase. In both 2010 and 2011, TIFIA received loan applications that had a face value of more than $8 billion. Those projects requested federal loans that would cover, on average, about 30 percent of total project costs (almost the maximum allowed under current law). Because of budget constraints, DOT was able to provide loans and guarantees for less than 10 percent of the requested loan volume at an estimated subsidy cost of about $100 million per year. As a result, there remains a significant backlog of proposed projects that are probably qualified to receive a TIFIA loan.

Because of provisions in the bill that would authorize TIFIA to provide loans to cover up to 49 percent of project costs, CBO expects that most individual loan requests would probably be larger under H.R. 7 than under current law. Based on information from DOT and project financing experts, we estimate that the face value of loans funded through the TIFIA program could reach $5 billion per year during the 2013–2016 period and total $1 billion to $2 billion per year in 2017 and subsequent years as new projects are developed and built.

In any year that the TIFIA program has insufficient budget authority to provide credit subsidies, H.R. 7 would authorize DOT to accept payments from TIFIA borrowers equal to the estimated subsidy cost of their loans. CBO expects that this provision would be used by DOT and borrowers to issue direct loans with a value between $1 billion to $2 billion each year over the 2017–2022 period after the amounts provided in H.R. 7 have been fully obligated.

CBO expects that prospective TIFIA borrowers considering whether to pay the subsidy costs of the federal credit backing they seek would generally refuse to implement projects if they conclude that the subsidy cost was too great. However, those prospective TIFIA borrowers would tend to obtain federal credit backing if they

[2] The types of transportation projects supported by TIFIA loans involve significant construction and operations risk. Typically, private loans are available for either the construction period or the operational phase of the project. TIFIA provides one loan for both components, thus reducing the cost of capital for transportation projects and possibly improving a project's financial viability. However, if a borrower pays the subsidy cost of a TIFIA loan or guarantee, that added cost, which would otherwise be borne by the government, would contribute to a reduction in the creditworthiness of the project. Because many projects backed by TIFIA would not be financially feasible without a federal credit subsidy, there is a practical limit to the amount of additional cost (in the form of subsidies) that such projects could bear without significantly increasing the risk that the borrower will default.

conclude that the subsidy cost of TIFIA credit is not too high. CBO expects that this sets up an asymmetry in the characteristics of projects that proceed with borrower-financed credit subsidies, which would create a situation where the TIFIA loan portfolio would have more projects where the subsidy cost paid by borrowers is less than the cost to the government as calculated under FCRA. CBO estimates that the subsidy cost charged to borrowers under this provision would, on average, be about 1 percent lower than the likely cost of the federal loan or loan guarantee. Applying that 1 percent subsidy rate to our estimate of the average annual demand for credit assistance from TIFIA of between $1 billion and $2 billion from 2017–2022 results in our estimate that enacting this provision would cost $90 million.

RRIF Program Expansion. Under the RRIF program, the FRA provides direct loans and loan guarantees to develop railroad infrastructure. The cost of RRIF loans are calculated under FCRA, and borrowers pay fees up front to offset the estimated subsidy cost. (In recent years, RRIF loans have had an average subsidy rate of about 5 percent.) Subtitle D of title VIII would change how FRA accounts for the value of certain collateral railroads offer to obtain RRIF loans.[3] CBO expects that this change would result in DOT assigning a higher value to that collateral than it otherwise would, making RRIF loans more appealing to borrowers and thus increasing the demand for RRIF loans. According to the FRA, this required change in the method used to value this type of collateral would likely underestimate the subsidy rate of the loans. CBO estimates that underestimating would reduce the subsidy rate on RRIF loans by about 5 percent. Further, CBO expects the RRIF program to operate at a net cost to the government over time because the program requires DOT to refund the fees collected from the borrower when a loan was issued if the borrower has not defaulted. However, the government is not authorized to collect additional money if the borrower fees do not fully cover the subsidy cost of the loan.

Increasing the estimated value of certain collateral for RRIF loans would increase the perceived creditworthiness of projects, in turn lowering the apparent subsidy rate for loans under the program and thereby the fees charged to borrowers. With lower fees, CBO expects demand for RRIF loans to grow—from a historical loan volume of $200 million per year to about $400 million annually. That expansion would increase costs for the RRIF program from both the asymmetrical selection of projects and provisions in the bill mandating how DOT should value certain loan collateral. CBO estimates that enacting those provisions would increase direct spending by $210 million over the 2013–2022 period.

[3] The bill would require FRA to value collateral offered to secure loans at 100 percent of the liquidated asset value and would require that for loans offered to railroads installing positive train control systems—a type of safety technology—FRA would include the total cost of labor and materials as the value of that collateral. Under current practice and to accurately reflect the potential cash flows to and from the government (in accordance with FCRA), FRA discounts the value of collateral that railroads offer because the value of the asset depreciates over time. Also, the government may have to wait to be able to liquidate the asset, delaying the cash flow into the Treasury, and reducing the net present value of any transaction. In the case of positive train control, the government would at no point be able to recoup any costs that the railroad incurred for labor.

Spending subject to appropriation

Subject to appropriation of the specified and necessary amounts, CBO estimates that implementing H.R. 7 would have discretionary costs of $170 billion over the 2012–2017 period.

Spending from the Highway Trust Fund. CBO expects that the contract authority provided in the bill would be controlled by limitations on obligations set in annual appropriation acts. CBO estimates that H.R. 7 would authorize total obligation limitations of $202 billion over the 2013–2016 period, including $163 billion for programs administered by FHWA and about $34 billion for programs administered by FTA. While this bill would not authorize an obligation limitation level for programs administered by NHTSA or FMCSA, CBO's estimate of discretionary spending under this legislation assumes obligation limitations that are equal to the contract authority provided in the bill for programs administered by those agencies—$5 billion. (Historically the Congress has set obligation limitations at or near such levels.) For this estimate, CBO did not project this discretionary authority past fiscal year 2016, the end of the authorization period covered by the legislation. Because the 2012 obligation limitation has already been enacted, CBO's estimate of the costs of the bill include the amounts authorized for 2013–2016. CBO estimates that implementing those provisions would cost $164 billion over the 2013–2017 period.

Federal Transit Administration. H.R. 7 would authorize the appropriation of about $2.1 billion a year over the 2013–2016 period. Those amounts could be used for: grants to state and local governments to construct new transit systems that use dedicated or controlled rights-of-way (such as subways or light rail lines) including costs to develop corridors to support such systems; programs to carry out research, outreach, and technical assistance; and administrative costs for the FTA. Assuming appropriation of the authorized amounts, CBO estimates that implementing those provisions would cost about $5.6 billion over the 2012–2017 period.

Bridge and Tunnel Inspection. Section 1114 would expand the detail and scope of the current national bridge inspection program and require safety inspections of tunnels. Implementing this provision would increase the frequency of inspections of federally owned bridges and would add to the training that inspectors of those bridges need in order to perform this work. Current regulations require that federal agencies that own and operate bridges on public roads comply with all safety requirements under DOT's bridge program. There are about 9,000 such bridges nationwide, mostly owned by the Departments of Agriculture, Defense, and the Interior. Based on information from DOT, CBO estimates that implementing this provision would cost $28 million over the 2012–2017 period, assuming appropriation of the necessary amounts.

Other Authorized Programs. H.R. 7 also would authorize the appropriation of $157 million over the 2012–2016 period for grants to emergency responders for training and planning activities related to the transportation of hazardous materials. It would also authorize the appropriation of $50 million, in 2013, to cover the cost of providing certain RRIF program loans to install safety equipment. CBO estimates that enacting those provisions would cost $196 million over the 2012–2017 period.

Revenues

Enacting H.R. 7 could result in the collection of additional civil penalties because it would increase the amount of such penalties that DOT could impose for violating certain safety regulations affecting motor carriers. The bill would also create new civil penalties for violating FMCSA regulations. Penalties are recorded in the federal budget as revenues and deposited in the U.S. Treasury. CBO estimates that any additional collections under the bill would be insignificant.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 7, THE AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT OF 2012, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON FEBRUARY 2, 2012

	By fiscal year, in millions of dollars—												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012–2017	2012–2022
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	15	20	21	22	32	32	32	42	42	42	110	300

Intergovernmental and private-sector impact: CBO has determined that the nontax provisions of H.R. 7 contain intergovernmental and private-sector mandates as defined in UMRA by imposing new safety standards on manufacturers, owners, and operators of motorcoaches and new standards for schools that offer training for operators of commercial motor vehicles. The bill would impose additional intergovernmental mandates on states and would preempt state, local, and tribal laws and regulations governing safety standards for motorcoaches, the transportation of hazardous and radioactive materials, and the ability of some state and local governments to hear some environmental cases. H.R. 7 also would impose several new private-sector mandates. For example, employers would be charged a fee for complying with the requirement to check the records of certain employees through FMCSA's clearinghouse concerning alcohol and drug use. Manufacturers, owners, and operators of agricultural equipment would have to comply with new safety standards. Freight forwarders and brokers would have to comply with new registration requirements, and meet a higher minimum threshold of financial responsibility. The bill also would impose mandates on Amtrak, owners and operators of motor vehicles transporting radioactive materials and other entities.

Because of uncertainty about the number of entities affected and the scope of future regulations—particularly those governing motorcoach safety—CB0 cannot determine whether the aggregate cost of the mandates in the bill would exceed the annual thresholds established in UMRA for intergovernmental or private-sector mandates ($73 million and $146 million in 2012, respectively, adjusted annually for inflation).

Previous CBO estimates: CBO provided cost estimates for several bills that were ordered reported by the Senate Committee on Commerce, Science, and Transportation on December 14, 2011: S. 1449, the Motor Vehicle and Highway Safety Improvement Act of 2011;

S. 1950, the Commercial Motor Vehicle Safety Enhancement Act of 2011; S. 1952, the Hazardous Materials Transportation Safety Improvement Act of 2011; and S. 1953, the Research and Innovative Technology Administration (RITA) Reauthorization Act of 2011. CBO also provided cost estimates for: S. 1813, the Moving Ahead for Progress in the 21st Century Act, as ordered reported by the Senate Committee on Environment and Public Works on November 9, 2011, with language provided to CBO on February 2, 2012; and the Federal Public Transportation Act of 2012 as ordered reported by the Senate Committee on Banking on February 2, 2012. Those bills would reauthorize programs administered by NHTSA, FMCSA, the Pipelines and Hazardous Materials Administration, RITA, FHWA, and FTA, respectively. Among other things, the Senate bills would reauthorize the DOT programs only through 2013, while H.R. 7 would reauthorize them through 2016. The CBO cost estimates reflect those differences.

Estimate prepared by: Federal Costs: Sarah Puro—FHWA, NHTSA, FMCSA, and FRA Programs Susan Willie—Transit Programs; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Vi Nyguyen.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 7 is intended to streamline surface transportation programs, expedite project review and delivery, increase private sector participation in building transportation infrastructure, provide long-term, stable funding for surface transportation programs through FY 2016, and improve transportation safety.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 7 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

The following describes the bill as reported by the Committee.

Sec. 1. Short title

This section provides the short title and table of contents.

Sec. 2. General definitions

This section provides the general definitions.

Sec. 3. Effective date

This section provides that Titles I through VII of this Act, including amendments made by those titles, shall take effect on October 1, 2012.

TITLE I—FEDERAL-AID HIGHWAYS

Sec. 1001. Amendments to title 23, United States Code

This section states that amendments or repeals referenced in this title are made to title 23, United States Code.

Subtitle A—Authorization of Programs

Sec. 1101. Authorization of appropriations

Subsection (a) authorizes funding levels for the following programs to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account) for each of fiscal years 2013 through 2016:

- National Highway System Program
- Surface Transportation Program
- Highway Safety Improvement Program
- Tribal Transportation Program
- Federal Lands Transportation Programs
- Recreational Trails Program
- Appalachian Development Highway System Program

Subsection (b) authorizes the following programs to be funded out of the Alternative Transportation Account of the Highway Trust Fund for each of fiscal years 2013 through 2016:

- Congestion Mitigation and Air Quality Improvement Program
- Ferry Boat and Ferry Terminal Facilities Program
- Puerto Rico Highway Program
- Territorial Highway Program

Subsection (c) defines the term "small business concern" of Disadvantaged Business Enterprises pursuant to section 3 of the Small Business Act. The term excludes a socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of $22,410,000. Small business concerns will receive no less than 10 percent of the amounts made available for any program under title I, II, and III of this Act and 23 U.S.C. § 403.

Sec. 1102. Highway obligation ceiling

Subsection (a) sets the obligation limitation for all federal-aid highway contract authority programs authorized to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account). The obligations for these programs shall not exceed—

- $37,366,000,000 for fiscal year 2013;
- $37,621,000,000 for fiscal year 2014;
- $37,676,000,000 for fiscal year 2015;
- $38,000,000,000 for fiscal year 2016.

Subsection (b) lists the programs that do not apply to the exceptions under subsection (a).

Subsection (c) sets the guidelines the Secretary must follow when distributing obligation authority.

Subsection (d) directs the Secretary to redistribute unused obligation authority each fiscal year.

Subsection (e) requires the Secretary to distribute to the states any funds that are authorized to be appropriated for the fiscal year

towards federal-aid highway programs and what will not be allocated to the states due to any obligation limitation for the fiscal year. Funds distributed under paragraph (1) will use the same ratio as subsection (c)(4) and are available for any purpose described in 23 U.S.C. § 133(b).

Subsection (f) requires obligation authority distributed for a fiscal year under subsection (c)(3) to remain available until used by the eligible entity and be in addition to the amount of any limitation imposed on obligations for federal-aid highway contract authority programs for future fiscal years.

Sec. 1103. Alternative Transportation Account obligation ceiling

Subsection (a) directs that the total obligations from amounts made available from the Alternative Transportation Account of the Highway Trust Fund for the programs which sums are authorized to be appropriated under sections 1101(b) and 7001 of this Act shall not exceed $2,707,000,000 for each of fiscal years 2013 through 2016. The $2.707 billion obligation ceiling in this section is inclusive of the $440 million obligation ceiling in section 7002 of this Act.

Subsection (b) amends 23 U.S.C. § 118(a) to clarify that programs funded out of the Alternative Transportation Account are contract authority programs.

Sec. 1104. Apportionment

This section amends 23 U.S.C. § 104.

Subsection (a) authorizes $400,000,000 towards administrative expenses of the Federal Highway Administration (FHWA) for each of fiscal years 2013 through 2016. This sum includes funds for the Appalachian Regional Commission to cover the administrative activities of the Appalachian development highway system.

Subsection (b) requires the Secretary to distribute the remainder of the sums authorized for expenditure on the National Highway System program, the congestion mitigation and air quality improvement program, the surface transportation program, and the highway safety improvement program to eligible states through specified formulas.

Subsection (c) requires the Secretary to calculate the deck area for highway bridges on the National Highway System that are eligible for replacement and rehabilitation.

Subsection (d) directs the Secretary to certify to each of the state transportation departments the sums apportioned them by October 1 of each fiscal year.

Subsection (e) requires annual audits of financial statements of the Highway Trust Fund to be conducted by the Office of Inspector General of the Department of Transportation.

Subsection (f) directs the Secretary to set-aside 1.15 percent of the funds authorized to be appropriated for the National Highway System program and surface transportation program each fiscal year to carry out the metropolitan planning requirements of 49 U.S.C. § 5203. The funds set aside under this subsection are apportioned to the states in the ratio which the population in the urbanized areas in each state bears to the total population in such urbanized areas in all the states. No state shall receive less than ½ of 1 percent of the amount apportioned. States must make the set

aside amounts under this subsection available to the metropolitan planning organizations of their state in order to carry out 49 U.S.C. § 5203. States that receive the minimum apportionment may use their funds to finance transportation planning outside of urbanized areas, subject to the approval of the Secretary. Any unused funds for 49 U.S.C. § 5203 may be used to fund activities for section 5204 of such title. The distribution of planning funds under paragraph (3) within any state must be in accordance with a formula developed by each state and approved by the Secretary.

Subsection (g) requires the Secretary to submit a report to Congress detailing for each state the amount obligated for federal-aid highways and highway safety construction programs, and for other purposes.

Subsection (h) allows funds made available for transit projects or transportation planning under this title to be transferred to and administered by the Secretary in accordance with chapter 53 of title 49. Paragraph (3) allows the Secretary to transfer funds apportioned or allocated under this title to the state, to another state or the Federal Highway Administration (FHWA). A state must have written consent from the appropriate metropolitan planning organization if the state is to transfer funds under the surface transportation program.

Subsection (i) directs the Secretary, before appropriating authorized sums, to deduct $840,000 for administrative, research, technical assistance, and training expenses to carry out the recreational trails program under 23 U.S.C. § 206, for each fiscal year.

Sec. 1105. Federal-aid systems

This section amends 23 U.S.C. § 103(b) to incorporate modifications to the National Highway System, inserting a mention of commerce and border crossings, and further modifies the components of the National Highway System. A new paragraph (6) is added that requires each state to implement a risk-based state asset management plan for managing all infrastructure assets in the right-of-way corridor with specific requirements for such plan. A state asset management plan shall include strategies leading to a program of projects that will make progress toward achievement of the national goals for infrastructure condition and performance of the National Highway System. If a state fails to implement such a plan consistent with this section, the federal share payable on account of any project or activity is changed to 70 percent under 23 U.S.C. § 119.

Sec. 1106. National Highway System program

This section amends 23 U.S.C. § 119 to require the Secretary to establish the National Highway System program and define its purpose. Only facilities located on the National Highway System are eligible for program funding. Eligible projects must: be located on an eligible facility, support progress towards national performance goals, be consistent with requirements of 49 U.S.C. § 5203 and § 5204, and satisfy an acceptable project purpose. Project sponsors have the authority to give preference to mitigating environmental impacts through the use of a mitigation bank or another third-party mitigation arrangement.

The federal share of the cost of a project payable from funds made available to carry out this section shall be determined under 23 U.S.C. § 120(b).

Sec. 1107. Surface transportation program

Subsection (a) amends 23 U.S.C. § 133(b) by striking paragraphs (1), (14) and (15). New paragraphs (1) through (4) establish the eligible projects under the surface transportation program.

Subsection (b) amends 23 U.S.C. § 133(c) by prohibiting projects funded by this program to be undertaken on roads functionally classified as local or rural minor collectors unless the roads were on a federal-aid highway system in 1991.

Subsection (c) repeals 23 U.S.C. § 133(d)(2). 23 U.S.C. § 133(d)(3) is amended by changing the percentage of funds that is required to be spent on urbanized areas with population over 200,000. Paragraph (E) requires a state to consult with the local rural planning organization, if any, before obligating funding for projects in a population area of 5,000 to 200,000.

Subsection (d) amends 23 U.S.C. § 133(e)(3) to require the Secretary to make payments to a state for costs incurred by the state for the surface transportation program.

Subsection (e) amends 23 U.S.C. § 133(f)(1) by inserting the correct fiscal years.

Subsection (f) allows up to 15 percent of the amounts required to be obligated by a state to be obligated on roads functionally classified as minor collectors. The Secretary has the authority to suspend this application if it is being used excessively by the state.

The surface transportation program supports a broad range of eligible projects. As such, the Committee encourages state departments of transportation to consider the needs of communities of all sizes and the demand for all types of eligible projects when deciding which projects to fund through the surface transportation program.

Sec. 1108. Congestion mitigation and air quality improvement program

Subsection (a) amends 23 U.S.C. § 149(b) by setting requirements for the obligation of funds. A project qualifies if the project is located in an area of the state that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act. A project also qualifies if it is determined the project will contribute to the attainment of a national ambient air quality standard, the maintenance of a national ambient air quality standard in a maintenance area, has been approved in a state implementation plan pursuant to the Clean Air Act, mitigates congestion, or is found to reduce travel time delay, vehicle miles traveled or fuel consumption.

A state may obligate funds for a project or program that will result in the construction of new capacity available to single occupant vehicles only if it will help mitigate congestion or improve air quality. Projects for PM–10 nonattainment areas and projects that establish or support the establishment of electric vehicle battery charging facilities also qualify. In addition, projects for electric vehicle infrastructure that establish electric vehicle battery charging

facilities qualify and may be carried out by a state, local agency, or public-private partnership.

Subsection (b) amends 23 U.S.C. § 149 by striking subsection (f).

Sec. 1109. Equity bonus program

This section amends 23 U.S.C. § 105 to apportion among the states amounts sufficient to ensure that each state receive a minimum return on the dollars that state contributes to the Highway Trust Fund.

For each of fiscal years 2013 through 2016, the percentage referred to in subsection (a) for each state shall be a minimum of 94 percent of the quotient obtained.

For each fiscal year, the Secretary shall apportion among the states amounts sufficient to ensure that each state receives a combined total apportionment for the programs in subsection (a)(2) and the congestion mitigation and air quality improvement program that equals or exceeds the combined amount that the state was apportioned for fiscal year 2012 for the programs specified in 23 U.S.C. § 105(a)(2). In determining a state's combined apportionment for fiscal year 2012, the Secretary shall not consider amounts apportioned to the state for such fiscal year under section 111(d)(1) and (3) of the Surface Transportation Extension Act of 2011, Part II (PL 112–30).

The manner by which the Secretary apportions the amounts made available through this program to programs in each state is provided. The Secretary shall apportion the amounts made available under this section that exceed $2,639,000,000 so that the amount apportioned to each state for programs in this section is equal to the amount determined by multiplying the amount to be apportioned to such state under this section. No set-aside under 23 U.S.C. § 104(f) applies to funds allocated under this section.

There are authorized to be appropriated out of the Highway Trust Fund, subject to paragraphs (2) and (3), $3,900,000,000 for each of fiscal years 2013 through 2016.

If the amounts in paragraph (1) are below the minimum percentage of total apportionments required for each fiscal year, the amount will be increased by the amount of the shortfall to meet the minimum requirement. If the amounts in paragraph (1) are above the minimum percentage of total apportionments required for each fiscal year, the amount will be decreased by the amount of the surplus.

Sec. 1110. Project approval and oversight

Subsection (a) amends 23 U.S.C. § 106(c)(1) to allow states to assume the responsibility of the Secretary for design, plans, specifications, estimates, contract awards, and inspections for projects on the National Highway System.

Subsection (b) amends 23 U.S.C. § 106(e) by requiring a state to provide a value engineering analysis for projects on the National Highway system with a total estimated cost of $50,000,000 and bridge projects on the National Highway System with a total estimated cost of $40,000,000. The requirements of subsection (e) do not apply to projects delivered under a design-build method.

Subsection (c) amends 23 U.S.C. § 106(h)(3) to require the financial plan to assess the appropriateness of a public-private partnership to deliver a project.

Subsection (d) amends 23 U.S.C. § 106 by adding subsection (j). This new subsection requires the Secretary to encourage the use of advanced modeling technologies during environmental, planning financial management, design, simulation, and construction processes for projects that receive federal funding.

Sec. 1111. Emergency relief

Subsection (a) amends 23 U.S.C. § 125(d) to allow the Secretary to expend funds from the emergency fund for repair or reconstruction of federal-aid highways. The maximum project cost under this section cannot exceed the cost of repair or construction of a comparable facility. Debris removal is an eligible expense under certain circumstances. The U.S. Territories may not receive more than $20,000,000 in a single fiscal year. Actual and necessary costs of maintenance and operation of ferryboats and additional transit services providing temporary substitute highway traffic service may be expended from the emergency fund. The Governor or President must declare an emergency in order to receive assistance under this section and the state must provide a list of projects and costs to the Secretary no later than two years after an emergency declaration.

Subsection (b) amends subsection (e) to update emergency relief to include the repair or reconstruction of tribal roads, federal lands highways, and other federally owned roads that are open to public travel, even if the roads are not on federal-aid highways. "Open to public travel" is defined.

Subsection (c) requires a rulemaking to update regulations governing the emergency relief program from the Secretary.

Subsection (d) requires the Secretary to take steps to improve the emergency relief program implementation.

Sec. 1112. Uniform transferability of federal-aid highway funds

This section amends 23 U.S.C. § 126 to allow a state to transfer up to 25 percent of the state's apportionments under the National Highway System program, the surface transportation program, and the highway safety improvement program for a fiscal year to any other apportionment of the state under any of those programs for that fiscal year. No funds may be transferred under this section that are subject to 23 U.S.C. § 104(f) or 23 U.S.C. § 133(d)(3).

Sec. 1113. Ferryboats and ferry terminal facilities

This section amends 23 U.S.C. § 147 by striking subsections (c), (d), and (e) and inserting a new subsection (c). Subsection (c) establishes the formula to determine what each eligible state shall receive to carry out this program for each fiscal year.

Sec. 1114. National highway bridge and tunnel inventory and inspection program

Subsection (a) requires the Secretary to inventory all bridges and tunnels and identify those that are structurally deficient or functionally obsolete. A risk-based priority must then be established for the structurally deficient or functionally obsolete bridges and tun-

nels taking multiple safety and public use factors into consideration. The cost for replacing the structurally deficient or functionally obsolete structure must be determined.

Subsection (b) requires the Secretary to establish and maintain inspection standards for the proper safety inspection and evaluation of all highway bridges and tunnels in the inventory. The Secretary must annually review state compliance standards, and in instances of noncompliance, allow the state to develop a corrective action plan. If the issue goes unresolved, a penalty shall be handed down to the state.

Subsection (c) directs the Secretary to establish a program designed to train personnel to carry out highway bridge and tunnel inspections.

Subsection (d) allows the Secretary to use funds from 23 U.S.C. § 104(a) and 23 U.S.C. § 503; a state to use from funds from 23 U.S.C. § 104(b)(1), § 104(b)(3), and § 104(b)(5); an Indian tribe to use funds from 23 U.S.C. § 502; and a federal agency to use funds from 23 U.S.C. § 503 to carry out this section.

Sec. 1115. Minimum investment in highway bridges

Subsection (a) requires states with a total highway bridge deck area on the National Highway System that is more than 10 percent structurally deficient to spend 10 percent of their allocation under 23 U.S.C. § 104(b)(1) and § 104(b)(3) on eligible projects on highway bridges. An amount equal to 110 percent of the amount that the state was required to expend for fiscal year 2009 on projects under 23 U.S.C. § 144(f)(2) shall be available to the states only for eligible projects not on federal-aid highways if the Secretary determines for the fiscal year that more than 15 percent of the total deck area of highway bridges not on federal-aid highways in the state is located on highway bridges not on federal-aid highways that have been classified as structurally deficient. States that have more than 2,000 structurally deficient highway bridges not on federal-aid highways are also eligible.

Subsection (b) amends 23 U.S.C. § 217(e) regarding safety accommodations when rehabilitating and replacing a bridge with bicycle lanes.

Sec. 1116. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

This section amends 23 U.S.C. § 164(a) to allow states to qualify for this section if they have a state law to suspend all repeat offender intoxicated drivers of their driving privileges for not less than 1 year or suspend driving privileges for 1 year with limited driving privileges permitted if an ignition interlock device is installed on the motor vehicle owned or operated by the individual. This section does not mandate that states adopt ignition interlock laws.

Sec. 1117. Puerto Rico highway program

23 U.S.C. § 165 is amended by striking subsections (a) and (b) and inserting two new subsections. The Secretary is required to allocate funds made available for the fiscal year to carry out a highway program in the Commonwealth of Puerto Rico.

Sec. 1118. Appalachian development highway system

This section requires the Secretary to apportion funds to the Appalachian development highway system program. Funds for this program are made available for obligation and administration. The federal share of the cost of any project under this section must be in accordance with 40 U.S.C. § 14501, to construct highways and access roads. Funds will remain available until expended. This section also allows states to use toll credits for the non federal share for projects on the Appalachian development highway system.

Sec. 1119. References to Mass Transit Account

Any reference to the Mass Transit Account in 23 U.S.C. or 49 U.S.C. shall refer to the Alternative Transportation Account.

Subtitle B—Innovative Financing

Sec. 1201. Transportation Infrastructure Finance and Innovation

Subsection (a) modifies the definitions for this section.
Subsection (b) makes the following changes to 23 U.S.C. § 602:
23 U.S.C. § 602. Applications and determinations of eligibility

"23 U.S.C. § 602(a). Project applications

This subsection allows a state, local government, agency of a state or local government, public authority, private party to a public-private partnership, or any other legal entity to submit an application for financial assistance. Applicants may request assistance to be provided under a master credit agreement.

"23 U.S.C. § 602(b). Eligibility

This subsection sets the criteria a project must meet in order to receive financial assistance. The project must be able to demonstrate and satisfy the following: planning and programmatic requirements, creditworthiness, dedicated revenue sources, regional significance, public sponsorship of private entities, and project readiness, among other factors.

"23 U.S.C. § 602(c). Preliminary rating opinion letter

This subsection requires each applicant to provide a preliminary opinion letter from a rating agency showing the potential to achieve an investment-grade rating.

"23 U.S.C. § 602(d). Approval of applications and funding

This subsection establishes an approval process for the Secretary for applications and project funding.

"23 U.S.C. § 602(e). Procedures for determining project eligibility

This subsection establishes procedures for approval or disapproval of applications based on whether the projects meet the criteria specified in subsection (b)(2).

"23 U.S.C. § 602(f). Application approval

This subsection provides that approved applications qualify the project for execution of a term sheet establishing a conditional commitment of credit assistance.

"23 U.S.C. § 602(g). Federal requirements

This subsection sets the federal requirements the project must comply with in order to receive federal funding.

"23 U.S.C. § 602(h). Development phase activities

This subsection allows any approved credit instrument to finance 100 percent of the cost of the development phase activities if the total amount of the credit instrument does not exceed the maximum amount prescribed in this chapter.

Subsection (c) of section 1201 amends 23 U.S.C. § 603. Section 603(a)(1) is amended by adding a reference to master credit agreements. Secured loans may not exceed 49 percent of the anticipated eligible project costs. The paragraph relating to how a secured loan shall be payable is modified. The paragraph relating to nonsubordination in the event of bankruptcy, insolvency or liquidation is modified.

Subsection (d) of section 1201 amends 23 U.S.C. § 604 to conform to sections amended by this Act. Secured loans may not exceed 49 percent of the anticipated eligible project costs. The paragraph relating to how a secured loan shall be payable is modified. The paragraph relating to nonsubordination in the event of bankruptcy, insolvency or liquidation is modified. The percentage referred to in subsection (b)(10) is amended to 49 percent.

Subsection (e) of section 1201 amends 23 U.S.C. § 605 by adding a new subsection (e) to require the Secretary to implement procedures and measures to expedite the approval process.

Subsection (f) of section 1201 amends 23 U.S.C. § 608(a)(1). Subsection (a)(1) authorizes $1,000,000,000 for each of fiscal years 2013 through 2016 to be appropriated out of the Highway Trust Fund to carry out this chapter. $3,250,000 is appropriated for each of fiscal years 2013 through 2016 for administrative costs to carry out this chapter. The amount of budget authority administered to a master credit agreement is limited to 15 percent. A new subsection (c) is added to require the Secretary to publish a notice in the Federal Register and notice to applicants. Applicants are allowed to pay the subsidy amount other than budget authority in a fiscal year. A new subsection (d) is added to require the Secretary to distribute any unallocated funds at the end of a fiscal year. The remaining budget authority must be distributed to the states via formula.

Sec. 1202. State infrastructure bank program

This section amends 23 U.S.C. § 610(d) to increase the amount a state can deposit into the highway account of their state infrastructure bank from 10 percent of the funds apportioned to the state to 15 percent. State infrastructure banks may not exceed 100 percent of the funds capitalized under 23 U.S.C. § 611 for each of fiscal years 2013 through 2016.

Sec. 1203. State infrastructure bank capitalization

This section amends chapter 6 of 23 U.S.C. by adding a new section, section 611, to require the Secretary to apportion the funds to carry out this section on October 1 of each fiscal year. States must make capitalization grants to their state's infrastructure bank with their apportioned funding. Beginning in FY 2015, the

Secretary shall reapportion the remaining funds among states that do not obligate the funds to the other states that used the funds to capitalize their state's infrastructure bank.

A recalculation under 23 U.S.C. § 105 is precluded for funds reapportioned under subsection (c). All the requirements in 23 U.S.C. § 610(h) apply to any funds apportioned under this section. $750,000,000 is authorized to be appropriated out of the Highway Trust Fund for each of fiscal years 2013 through 2016. These funds are available for obligation and administration in the same manner as if the funds were apportioned under chapter 1.

Sec. 1204. Tolling

Subsection (a) amends 23 U.S.C. § 129(a) to permit federal participation in toll projects in the same manner as construction of toll-free highways. Conditions of facility ownership are set. Limitations on how toll revenues can be used are set. Public authorities with jurisdiction over a toll facility must conduct an annual audit of toll facility records to verify adequate maintenance and compliance. If found noncompliant, the Secretary has the right to require the authority to discontinue collecting tolls until a compliance plan is agreed upon.

Public authorities with jurisdiction over a high occupancy vehicle facility may undertake reconstruction, restoration, or rehabilitation on the facility. They may levy tolls on vehicles, excluding high occupancy vehicles, using that facility if certain requirements are met. The authority has the right to set the toll rate and exempt or designate special tolls for certain classes of vehicles. The federal share payable for a project is a percentage determined by the state but cannot exceed 80 percent.

States are given the ability to loan to a public or private entity constructing a toll facility, or non-toll facility, with a dedicated revenue source that equals or partly equals the federal share for the project. States must pass a law to permit tolling, if there is no law already in place, before they are permitted to toll.

Subsection (b) requires all toll facilities on the federal-aid highway system to implement technologies that provide for the interoperability of electronic toll collection programs within two years of enactment.

Sec. 1205. HOV facilities

This section amends 23 U.S.C. § 166. Section 166(b)(5) is amended by extending the date for low emission and energy efficient vehicles use of HOV facilities. Section 166(c)(3) is amended to subject toll revenue to the requirements of section 129(a)(3). Section 166(d)(2) is amended to add a new paragraph to the end that requires the state to maintain operating performance with the minimum average operating speed performance standard.

Sec. 1206. Public-private partnerships

This section requires the Secretary to compile best practices on how the government can work with the private sector in the development, financing, construction, and operation of transportation facilities. Best practices must include policies and techniques to ensure that the interests of the traveling public are met and the government is protected in any agreement with the private sector. The

Secretary may provide technical assistance on public-private partnerships to states, upon request. The Secretary is required to develop standard public-private partnership model contracts for the most popular types of public-private partnerships for use by states and local governments.

Subtitle C—Highway Safety

Sec.1301. Highway safety improvement program

This section amends 23 U.S.C. § 148, the highway safety improvement program.

Subsection (a) provides definitions for terms used in this section.

Subsection (b) directs the Secretary to carry out a highway safety improvement program.

Subsection (c) requires states to have a highway safety improvement program in order to receive funds apportioned under this section. Each state must have a highway safety plan as part of their highway safety program that is developed in consultation with transportation stakeholders, sets highway safety goals, identifies highway safety projects and is consistent with performance measures established under title 49, U.S.C. Each highway safety plan must consider hazardous roadway features, determine priorities for the correction of such features, identify the 100 most dangerous roads in the state, and evaluate the progress made each year in achieving state safety goals. Eligible projects under this program may be carried out on any public road, pathway or trail, may improve the safety data system of the state, may maintain minimum levels of retroreflectivity, or be consistent with the FHWA's publication titled "Highway Design Handbook for Older Drivers and Pedestrians". Funds apportioned to a state under section 104(b) may not be used to carry out a program to purchase, operate or maintain an automated traffic enforcement system. The definition of "automated traffic enforcement system" includes enforcement systems such as red light cameras, speed cameras, or automated license plate readers. This section is not intended to diminish or preclude enforcement of commercial motor vehicle regulations under title 23 or title 49.

Subsection (d) allows states to flex not more than 10 percent of their apportioned funds from this section for safety projects under any other section.

Subsection (e) requires each state to have in effect, as part of their highway safety improvement program, a safety data system that collects and maintains safety data on all public roads in that state.

Subsection (f) requires all highway safety plans and reports submitted by states under this section to be available to the public.

Subsection (g) prohibits any reports or data compiled under this section to be admissible as evidence in a federal or state court proceeding.

Subsection (h) sets the federal cost share for a project carried out under this section at 90 percent.

The Secretary shall issue guidance to states on the appropriate conditions under which the use of fixed or portable electronic messaging signs that relay work zone delay, travel times, and warning information to motorists should be used.

Sec. 1302. Railway-highway crossings

Subsection (a) amends 23 U.S.C. § 130(d) by requiring each state to make surveys and schedules available to the public.

Subsection (b) amends 23 U.S.C. § 130 by adding a new subsection (m) which requires each state to submit a report to the Secretary on the 10 railway-highway crossings in the state that have the greatest need for safety improvements, an action plan to address such safety needs, and a list of projects carried out at such crossings over the previous two years. All reports must be posted on the United States Department of Transportation's (USDOT) and each state's department of transportation website. Reports and data complied under this subsection are not admissible as evidence in a federal or state court proceeding. The Secretary may withhold funding under section 130 if a state fails to comply with this subsection.

Sec.1303. Highway worker safety

Subsection (a) directs the Secretary to modify section 630.1108(a) of title 23, Code of Federal Regulations, to ensure that highway construction workers are properly separated from highway traffic with proper barriers.

Subsection (b) directs the Secretary to modify regulations issued pursuant to section 1402 of SAFETEA–LU that would allow fire services personnel to comply with apparel requirements set forth in such regulation.

Subtitle D—Freight Mobility

Sec. 1401. National Freight Policy

Subsection (a) directs the Secretary to develop a 5-year National Freight Policy in consultation with public and private sector freight stakeholders, which is to include representatives of ports, shippers, carriers, freight-related associations, the freight industry workforce, state transportation departments, and local governments. The Committee believes the inclusion of local governments as a stakeholder to be consulted in the development of the National Freight Policy should be interpreted to include local air quality agencies where appropriate.

The Secretary should work through the Office of Freight Management and Operations in FHWA to develop the National Freight Policy under this section. In developing the National Freight Policy, the Office of Freight Management and Operations should advise the Secretary on freight issues; facilitate communication among public and private stakeholders with respect to freight issues and provide recommendations to the Secretary on federal, state, and local public and private funding sources for projects with respect to freight.

Subsection (b) directs the National Freight Policy to specify goals, objectives, and milestones with respect to the expansion of freight transportation capacity and the improvement of freight transportation infrastructure. The policy is to identify strategies, protocols, and processes to help achieve the goals and objectives and implement the policy.

Subsection (c) directs the Secretary, in developing the National Freight Policy, to consider the goals of investing in freight infra-

structure to strengthen economic competitiveness, meeting standards, expanding to meet future demand, improving safety, implement new technologies, and spurring performance and innovation, among other goals.

Subsection (d) requires the Secretary to include the National Freight Policy in the National Strategic Transportation Plan developed under 49 U.S.C. § 5205.

Subsection (e) directs the Secretary to make changes to the commodity flow survey conducted by the Bureau of Transportation Statistics that will reduce identified freight data gaps and deficiencies and assist in forecasting transportation demand.

Sec. 1402. State freight advisory committees

This section directs the Secretary to encourage states to establish a freight advisory committee consisting of public and private sector freight stakeholders, which include representatives of ports, shippers, carriers, freight-related associations, the freight industry workforce, the state's transportation department, and local governments. The Committee believes the inclusion of local governments in the list of stakeholders to be included in state freight advisory committees should be interpreted to include local air quality agencies where appropriate. The state freight advisory committee is required to advise the state on freight priorities and serve as a forum of discussion for state freight transportation decisions, among other roles.

Sec. 1403. State freight plans

This section directs the Secretary to encourage each state to develop a freight plan that provides for the state's immediate and long-range planning activities and investments with respect to freight. The freight plan may be separate or part of the statewide strategic long-range transportation plan.

Sec. 1404. Trucking productivity

Under current federal law, there are weight limits for trucks on the interstate system as well as width and length limits on the National Network (a system of approximately 209,000 miles of roads including the interstate system specifically designated in federal regulations). In addition to these general standards, federal law includes provisions, exemptions and variations applicable to particular states, routes, vehicles, or operations creating a patchwork of restrictions across the United States. This section makes changes to the current size and weight limits in order to increase the efficiency of freight movement in the United States.

This section authorizes the Secretary to carry out a pilot program to allow, by special permit, the operations of a vehicles with gross weight of up to 126,000 pounds on no more than three segments of an interstate highway that can be contiguous up to 25 miles each. The Committee believes, in order to show geographic and product diversity of commodities, an example of such diversity would be the hauling of coal in West Virginia and timber in Minnesota.

This section authorizes states to issue special permits for overweight vehicles during a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

This section provides a weight limit exemption for emergency vehicles. This section requires states to allow access on the National Network and reasonable access highways for double trailer trucks with 33-foot trailers and single trailer trucks with 53-foot trailers. This section prohibits a state from imposing a length limitation of less than 80 feet on an automobile transporter, a length limitation of less than 82 feet on light- and medium-duty trailer manufacturers hauling trailers in a double configuration, or a kingpin-to-rear axle distance of 46 feet on livestock haulers. This section allows buses purchased after October 1, 2012, with a device for carrying luggage to operate with lengths up to 47 feet. This language applies to bus length only and should not be interpreted to be an implied exemption to weight limitations.

Sec. 1405. Study with respect to truck sizes and weights

This section requires the Secretary to conduct a 3-year study with respect to truck sizes and weights. The Secretary shall examine the effect on principal arterial routes and National Highway System intermodal connectors that allowing nationwide operation of each covered truck configuration would have.

This section requires the Secretary to evaluate the effect on safety of allowing specified truck configurations to operate, to estimate the full cost responsibility associated with each truck, to examine the ability of a representative sample of regions to meet repair and reconstruction needs, to estimate the extent to which freight would be diverted from other surface transportation modes to principal arterial routes and National Highway System intermodal connectors.

Sec. 1406. Maximum weight increase for idle reduction technology on heavy duty vehicles

This section increases the maximum gross vehicle weight limit and the axle weight limit for any heavy duty vehicle equipped with idle reduction technology from 400 pounds to 550 pounds.

Subtitle E—Federal Lands and Tribal Transportation

Sec.1501. Federal lands and tribal transportation programs

This section replaces sections 201, 202, 203, and 204 of title 23 U.S.C. with section 201, general provisions, section 202, the federal lands transportation program and section 203, the tribal transportation program.

23 U.S.C. § 201 is amended by creating two new programs; the tribal transportation program and the federal lands transportation program. Subsection (a) establishes guidelines for the programs and requires the programs to be administered by the Secretary of Transportation, in conjunction with the other Secretaries of the appropriate land management agencies. The Secretary charged with administering funds under the programs can enter into contractual obligations for engineering or related work for the design, development, and acquisition associated with a project or plans, specifications, and estimates associated with a project.

The Secretary shall direct not less than 10 percent of any unused obligation authority for 23 U.S.C. § 202 to the competitively awarded high priority projects program established under the tribal fund-

ing formula in 23 U.S.C. § 202. The federal share payable for a project carried out under 23 U.S.C. § 202 and § 203 shall be 100 percent. The federal share payable for operating expenses under 23 U.S.C. § 203 shall be 50 percent and the federal share payable for operating expenses under 23 U.S.C. § 202 shall be consistent with the historical federal share before date of enactment of this Act.

Subsection (e) requires the Secretary, in consultation with the other federal land management agencies, to establish transportation planning procedures for tribal transportation facilities and federal lands transportation facilities. As part of the transportation planning process, the Secretary shall develop a transportation improvement program consistent with the requirements of this subsection. The Secretary may use up to 5 percent of funds made available for 23 U.S.C. § 203 for implementing activities described in this section and transportation planning activities.

The Secretary establishes the tribal transportation program under 23 U.S.C. § 202 to distribute funding to tribes for projects described in subsection (b). The Secretary has the authority to enter into contracts with states and tribes with respect to carrying out this section. Paragraph (6) limits the amount the Secretary of Transportation or the Secretary of the Interior may spend on program management, oversight, and administration to five percent of section 202 funds. With the consent of a tribe, the Secretary or a tribe may use funding under this section for maintenance and amount that does not exceed 25 percent of such funds or $500,000.

The Bureau of Indian Affairs shall maintain primary responsibility for road maintenance programs on tribal reservations. The Secretary of the Interior shall ensure funds made available for maintenance of tribal transportation facilities shall be supplementary. States and tribes may enter into a road maintenance agreement. States, counties and other political subdivisions of a state shall be accepted when constructing or improving a tribal transportation facility. States may provide a portion of their apportioned funds under chapter I of title 23 U.S.C. to a tribe for projects on a tribal transportation facility. Construction of a project under 23 U.S.C. § 202 shall be performed through a competitively awarded contract.

Funds authorized to be appropriated under 23 U.S.C. § 202 shall be allocated among the tribes in accordance with the funding formula established under this section. The Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act). Nothing in this section should be construed to require the funding formula maintained by the Secretary of the Interior, as of date of enactment of this Act, to be altered or amended. The Secretary of the Interior shall maintain a national tribal transportation facility inventory that contains eligible transportation facilities under the tribal transportation program and shall accept into the inventory facilities submitted to the Secretary of the Interior by tribes no later than September 30, 2012 and every two years after such date. The inventory shall include facilities described in paragraph (B). Bridges included in the

inventory shall be included on the national bridge inventory under 23 U.S.C. § 151.

The Secretary of the Interior shall maintain regulations governing the funding formula. The basis for the funding formula shall be consistent with currently established procedures under such formula. As part of the formula, the Secretary shall continue the high priority projects program established prior to date of enactment of this Act. No later than 30 days after funds are made available to the Secretary or Secretary of the Interior for this section, the funds shall be distributed to and available for tribes in accordance with the funding formula. A tribe may enter into a contract and agreement with funds made available under this section if they meet the health and safety requirements under paragraph (6). Contracts and agreements with tribes for program costs shall be made pursuant to paragraph (7). Contracts and agreements with tribes for tribal transportation facility projects and programs shall be made pursuant to paragraph (8).

Subsection (d) allows the greater of two percent or $35,000 of funds under this section to be available for transportation planning.

Subsection (e) requires the Secretary to ensure that funds made available for a project under this section are supplementary to and not in lieu of the obligation of fair and equitable share of funds apportioned to such state under 23 U.S.C. § 104.

Subsection (f) allows a tribe to be eligible for competitive or discretionary grants under title 23 U.S.C. or chapter 53 of title 49 U.S.C.

23 U.S.C. § 203, the federal lands transportation program, is established to distribute funding to the federal land management agencies. Funding for the program would be distributed to the National Park Service, the Forest Service, the United States Fish and Wildlife Service, the Corps of Engineers, and the Bureau of Land Management. Of the amounts authorized to be appropriated for the federal lands transportation program, the National Park Service, the Forest Service, and the United States Fish and Wildlife Service shall receive a minimum apportionment. The remaining funding is distributed through an application process by each federal land management agency.

The Secretary of Transportation considers the extent to which each agency addresses transportation goals, including performance management as appropriate; addresses the resource management goals of the Secretaries of the respective federal land management agencies; and supports high-use federal recreation sites or economic generators. This section requires the federal land management agencies to maintain inventories of their transportation facilities that provide access to high-use federal recreation sites or are administered by the appropriate agency.

Sec. 1502. Definitions

Subsection (a) repeals definitions in 23 U.S.C. § 101(a).

Subsection (b) adds definitions for "Federal land management agency", "Federal lands", "Federal lands highway", "Federal lands transportation facility", "tribal road", and "tribal transportation facility" to 23 U.S.C. § 101(a).

Sec. 1503. Conforming amendments

Subsection (a) amends 23 U.S.C. § 120 by replacing the terms repealed in section 1502 of this Act with new terms added in 23 U.S.C. § 101(a).

Subsection (b) amends 23 U.S.C. § 138(a) by replacing the reference to 23 U.S.C. § 204 with a reference to 23 U.S.C. § 203.

Subsection (c) amends 23 U.S.C. § 139(j)(3) by changing the paragraph heading and replacing the reference to 23 U.S.C. § 204 with a reference to 23 U.S.C. § 202 and § 203.

Subsection (d) amends 23 U.S.C. § 217(c) by changing the subsection heading and replaces the reference to term repealed in section 1502 of this Act with new terms in 23 U.S.C. § 101(a).

Subsection (e) amends 23 U.S.C. § 315 by replacing the reference to 23 U.S.C. § 204(f) and § 205(a) with a reference to 23 U.S.C. § 203(b)(4) and § 205(a).

Sec. 1504. Repeals; effective date

Subsection (a) repeals 23 U.S.C. § 204 and § 214.

Subsection (b) clarifies that an amendment or repeal made by this subtitle shall not affect funds apportioned or allocated before the effective date.

Sec. 1505. Clerical amendment

This section amends the analysis for chapter 2.

Sec. 1506. Tribal transportation self-governance program

This section creates a new 23 U.S.C. § 207, the tribal transportation self-governance program.

Subsection (a) requires the Secretary to establish the tribal transportation self-governance program.

Subsection (b) establishes the requirements that a tribe must meet in order to be eligible to participate in the program. The tribe must officially make a request to the Secretary to participate in the program and demonstrate financial stability and financial management capability for the preceding 3 fiscal years. For a tribe to meet the financial stability and financial management capability requirements, they must have had no uncorrected significant and material audit exceptions in the annual audit of the tribe's self-determination contracts or self-governance funding agreements with any federal agency.

Subsection (c) requires a compact with the Secretary and a tribe in order for a tribe to participate in the program. The compact establishes the general terms of the governmental relationship between the tribe and the United States. The compact can be amended only by mutual agreement.

Subsection (d) requires the Secretary to enter in to an annual funding agreement with a tribe as part of the compact under subsection (c). The funding agreement authorizes the tribe to plan, conduct, consolidate, administer, and receive full tribal share funding and funding to tribes from discretionary grants for all programs, services, functions, and activities that are made available to the tribe for the tribal transportation program and other programs administered by the Secretary. If a state elects to provide a tribe with funds from the state's allocation under chapter I of title 23 for an eligible project under 23 U.S.C. § 202, such funds shall be in-

cluded in the funding agreement. If a state provides funds to a tribe through the funding agreement, the state is not responsible for constructing, maintaining, administering, or supervising a project using such funds. If a state provides funds to a tribe through the funding agreement, the tribe is responsible for constructing, maintaining, administering, or supervising a project using such funds. Pending a mutual agreement, the funding agreement shall include provisions for flexible and innovative financing. The Secretary may issue regulations on such flexible and innovative financing provisions but if no regulations are issued the provisions shall be consistent with agreements under contracts and agreements with tribes for tribal transportation programs and projects or regulations issued by the Department of the Interior relating to flexible financing.

Tribes shall be eligible to participate in any competitive or discretionary grant program under transportation programs that states are allowed to participate in. The terms of a funding agreement shall identify programs, services, functions, and activities to be performed or administered by a tribe. All funding agreements established shall remain in effect until a subsequent funding agreement is executed. The Secretary cannot revise, amend, or add terms to a new or subsequent funding agreement without tribal consent unless such terms are required by federal law.

Subsection (e) authorizes a tribe under a funding agreement to redesign or consolidate programs, services, function, and activities under the funding agreement. A tribe may reallocate or redirect funds for such programs, services, functions, and activities if the funds are expended on projects in the transportation improvement program and used with appropriations Acts and other statutory limitations. Discretionary funds received by a tribe shall be used for the purposes for which the funds were authorized. A tribe may retrocede to the Secretary programs, services, functions, or activities in a compact or funding agreement. Such agreed upon retrocession shall be effective within the timeframe described in the compact or funding agreement or if no timeframe exists the earlier of 1 year after the date of submission of the request or the date on which the funding agreement expires or such date as agreed upon by the parties.

Subsection (f) establishes what official in the Department is allowed to make a decision that constitutes final agency action. The Secretary is authorized to terminate the compact or funding agreement and reassume the remaining funding associated with the reassumed programs, services, functions and activities under a compact or funding agreement if the Secretary finds imminent jeopardy to a trust asset, natural resource, or public safety and health that is caused by an act or omission of the Indian tribe and that arises out of a failure to carry out the compact or funding agreement or gross mismanagement with respect to funds or programs transferred to the tribe under the compact or funding agreement. The Secretary shall not terminate a compact or funding agreement unless there is written notice and a hearing on the record to the tribe subject to the compact or funding agreement and the tribe has not taken corrective action to remedy the mismanagement of funds. The Secretary may immediately terminate the compact or funding agreement if the Secretary finds imminent substantial and irrep-

arable jeopardy to a trust asset, natural resource, or public health and safety and the jeopardy arises from the failure to carry out the compact or funding agreement. The Secretary bears the burden of proof for a termination of a compact or funding agreement.

Subsection (g) requires tribes receiving funds under this program to apply cost principles under the applicable Office of Management and Budget circular.

Subsection (h) establishes the procedures for the transfer of funds under the program. Construction projects carried out by a tribe under this program shall be pursuant to standards set forth in applicable regulations or approval by the Secretary and shall be monitored by the Secretary.

Subsection (j) requires the Secretary to interpret laws, executive orders, and regulations that will facilitate the inclusion of programs, services, functions, and activities as part of the compact or funding agreement and implementation of such agreements. A tribe may request a waiver for a regulation pursuant to a compact or funding agreement. The Secretary shall approve or deny a waiver request within 90 days of tribal notice. The Secretary may deny a waiver request only if the Secretary finds the regulation may not be waived because a waiver is prohibited by federal law. If no approval or rejection of a waiver request is issued by the Secretary within 90 days, the request is deemed approved.

Subsection (k) requires the Secretary to maintain current program and funding agreements or enter into new agreements upon the election of a tribe.

Subsection (l) determines which provisions in the Indian Self-Determination and Education Assistance Act apply to compacts or funding agreements under this program.

Subsection (m) establishes the definitions for 'compact', 'department', 'eligible Indian tribe', 'funding agreement', 'Indian tribe', 'program', Secretary', and 'transportation programs'. Definitions in sections 4 and 505 of the Indian Self-Determination and Education Assistance Act apply, unless except as otherwise provided.

Subsection (n) requires the Secretary to establish regulations to carry out this section no later than 90 days after enactment of this Act. All regulations for this section shall be posted in the Federal Register. The authority of the Secretary to issue regulations under this section shall expire 30 months after date of enactment. The expiration of promulgated regulations may be extended up to 180 days if a committee cannot meet the deadline. A negotiated rulemaking committee shall be established with members of the federal and tribal governments. If regulations are not promulgated, this section's effect shall not be limited. A tribe in a compact or funding agreement under this section shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the DOT, except regulations under this section.

Subtitle F—Program Elimination and Consolidation

Sec. 1601. Program elimination and consolidation

Subsection (a) directs that a repeal or amendment made by this section will not affect funds apportioned or allocated before the effective date of repeal.

• 23 U.S.C. § 110, Revenue Aligned Budget Authority, is repealed.
• 23 U.S.C. § 117, High Priority Projects Program, is repealed.
• 23 U.S.C. § 118(c), Set Asides for Interstate Discretionary Projects, is repealed.
• 23 U.S.C. § 136, Control of Junkyards, is repealed.
• 23 U.S.C. § 144, Highway Bridge Program, is repealed.
• 23 U.S.C. § 152, Hazardous Elimination Program, is repealed.
• 23 U.S.C. § 157, Safety Incentive Grants for the Use of Seat Belts, is repealed.
• 23 U.S.C. § 155, Access Highways to Public Recreation Areas on Certain Lakes, is repealed.
• 23 U.S.C. § 160, Reimbursement for Segments of the Interstate System Constructed Without Federal Assistance, is repealed.
• 23 U.S.C. § 162, National Scenic Byways Program, is repealed.
• 23 U.S.C. § 212, Inter-American Highway, is repealed.
• 23 U.S.C. § 216, Darien Gap Highway, is repealed.
• 23 U.S.C. § 217, State Coordinators, is amended by striking subsection (d) and redesignating the other subsections accordingly.
• 23 U.S.C. § 218, Alaska Highway, is amended by striking the first 2 sentences in subsection (a), "No expenditures" in paragraph (C), and all of subsection (b).
• 23 U.S.C. § 303, Management Systems, is repealed.
• 23 U.S.C. § 309, Cooperation with Other American Republics, is repealed.
• 23 U.S.C. § 319, Landscaping and Scenic Enhancement, is amended by striking subsection (b).
• 23 U.S.C. § 322, Magnetic Levitation Transportation Technology Deployment Program, is repealed.
• Section 1117 of SAFETEA–LU, Transportation, Community, and System Preservation Program, is repealed.
• Section 1301 of SAFETEA–LU, Projects of National and Regional Significance, is repealed.
• Section 1302 of SAFETEA–LU, National Corridor Infrastructure Improvement Program, is repealed.
• Section 1305 of SAFETEA–LU, Truck Parking Facilities, is repealed.
• Section 1306 of SAFETEA–LU, Freight Intermodal Distribution Pilot Grant Program, is repealed.
• Section 1307 of SAFETEA–LU, Deployment of Magnetic Levitation Transportation Projects, is repealed.
• Section 1308 of SAFETEA–LU, Delta Region Transportation Development Program, is repealed.
• Section 1404 of SAFETEA–LU, Safe Routes to School Program, is repealed.
• Section 1410 of SAFETEA–LU, National Work Zone Safety Information Clearinghouse, is repealed.
• Section 1411 of SAFETEA–LU, Roadway Safety, is repealed.
• Section 1502 of SAFETEA–LU, Highways for LIFE Pilot Program, is repealed.
• Section 1604(b) of SAFETEA–LU, Express Lanes Demonstration Program, is repealed.
• Section 1604(c) of SAFETEA–LU, Interstate System Construction Toll Pilot Program, is repealed.

• Section 1803 of SAFETEA–LU, America's Byways Resource Center, is repealed.
• Section 1804 of SAFETEA–LU, National Historic Covered Bridge Preservation, is repealed.
• Section 1807 of SAFETEA–LU, Nonmotorized Transportation Pilot Program, is repealed.
• Section 1906 of SAFETEA–LU, Grant Program to Prohibit Racial Profiling, is repealed.
• Section 1907 of SAFETEA–LU, Pavement Marking Systems Demonstration Projects, is repealed.
• Section 1958 of SAFETEA–LU, Limitation on Project Approval, is repealed.

Subtitle G—Miscellaneous

Sec. 1701. Transportation enhancement activity defined

This section amends the definition for 'transportation enhancement activity' in 23 U.S.C. § 101(a).

Sec. 1702. Pavement markings

This section amends 23 U.S.C. § 109 by prohibiting the Secretary from approving pavement marking projects that use glass beads containing more than 200 parts per million of arsenic or lead.

Sec. 1703. Rest areas

Subsection (a) amends 23 U.S.C. § 111 by adding a provision that prohibits the changing of the boundary of any Interstate system right-of-way for construction of an automotive service station or other commercial establishment. A new subsection (b) is added to allow a state to establish a rest area along the Interstate. The rest area may be operated by a private entity to provide limited commercial service. Revenues received from the operation of such rest areas shall be used by the state for other rest areas in the state.

Subsection (b) allows, under specific circumstances, sponsorship signs of rest areas.

Sec. 1704. Justification reports for access points on the Interstate system

This section amends 23 U.S.C. § 111 by adding a new subsection (e) at the end to allow the state transportation department to approve a justification report for an access point on the Interstate system if such a report is requested.

Sec. 1705. Patented or proprietary items

This section amends 23 U.S.C. § 112 by adding a new subsection (h) at the end to require the Secretary to approve the use of a patented or proprietary item with federal funds if the state certifies that no suitable alternative exists, that the patented or proprietary item will be labeled as such in bid documents, and any patented or proprietary items will be available to complete the project.

Sec. 1706. Preventive maintenance

This section amends 23 U.S.C. § 116 by adding a new subsection (e) at the end to add definitions for "preventive maintenance" and "pavement preservation programs and activities."

Sec. 1707. Mapping

Subsection (a) amends 23 U.S.C. § 306 to require the Secretary to carry out this section and modify the appropriate role of state governments. A new subsection (c) is added at the end which requires the Secretary to develop a process for the oversight and monitoring of the compliance of each state with guidance from subsection (b).

Subsection (b) requires the Secretary to conduct a survey of all states to determine what percentage of projects in each state utilized private sector sources for mapping and surveying services.

Sec. 1708. Funding flexibility for transportation emergencies

This section adds a new 23 U.S.C. § 330. It allows the chief executive of a state to use any amounts apportioned to that State for the repair or replacement of a transportation facility that the chief executive has declared as a state of emergency. The emergency declaration requirements that a chief executive must meet in order to qualify for this section are defined. In addition, the terms "covered funds", "emergency", and "transportation facility" are defined.

Sec. 1709. Budget justification

This section amends subchapter I of chapter 3 of title 49 U.S.C. by adding a new section, section 310. Section 310 requires the Secretary and the head of each modal administration to submit a budget justification with the President's annual budget submission to Congress.

Sec. 1710. Extension of over-the-road bus and public transit vehicle exemption from axle weight restrictions

This section amends section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 by changing the heading of paragraph (1), striking the date in paragraph (1), and striking the date in paragraph (2)(A).

Sec. 1711. Repeal of requirement for Interstate designation

This section amends section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 by allowing the designated routes to be designated as a route on the Interstate system if they meet the requirements in section 109(b) of title 23.

Sec. 1712. Retroreflectivity

This section requires the Secretary to remove all compliance dates for highway sign retroreflectivity requirements in the Manual on Uniform Traffic Control Devices.

Sec. 1713. Engineering judgment

This section requires the Secretary to issue guidance to states to clarify that standards for the design and application of traffic control devices shall not be considered a substitute for an engineering judgment.

Sec. 1714. Evacuation routes

This section requires each state to give adequate consideration of evacuation routes when allocating funds apportioned under title 23, U.S.C.

Sec. 1715. Truck parking

This section requires the Secretary to conduct a survey of each state to develop a system of metrics to measure the adequacy of commercial motor vehicle parking facilities in the state, assess the commercial motor vehicle traffic volume in the state, and evaluate the capability of the state to provide adequate parking and rest facilities for commercial motor vehicles engaged in interstate transportation. Eligible truck parking projects a state may obligate funds towards is defined. In addition, it establishes electric vehicle charging stations as an eligible activity.

Sec. 1716. Use of certain administration expenses

This section allows funds made available in 23 U.S.C. § 104(a) to be used for no more than $2,000,000 for operating the national work zone safety information clearinghouse, the public road safety clearinghouse, and providing work zone safety grants.

If the Secretary elects to use funds for work zone safety grants, the grants may include eligible training courses on guardrail installation, guardrail maintenance and guardrail inspection. Other eligible training courses include identification of engineering improvements at crash locations for law enforcement personnel, and traffic control for emergency responders.

Sec. 1717. Transportation training and employment programs

This section encourages the Secretary of Education and the Secretary of Labor to use funds for training and employment education programs to encourage development of transportation-related careers and trades.

Sec. 1718. Engineering and design services

This section directs state department of transportation's to utilize commercial enterprises for the delivery of engineering and design services, to the maximum extent practicable.

Sec. 1719. Notice of certain grant awards

This section requires the Secretary to provide written notice of a covered grant award of at least $500,000 three business days prior to announcing it publicly.

Sec. 1720. Miscellaneous parking amendments

This section amends 23 U.S.C. § 137(a), § 142(a)(1), and § 205(d) to allow electric vehicle charging stations to new or previously funded parking facilities to be eligible in this section.

Sec. 1721. Highway Buy America provisions

This section amends 23 U.S.C. § 313 to apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under NEPA, regardless of the funding source of such contracts.

Sec. 1722. Veterans preference in highway construction

This section amends 23 U.S.C. § 114 by adding a new subsection, subsection (d). It requires recipients of federal financial assistance under this chapter to ensure that contractors working on a highway project funded using such assistance give preference in the

hiring or referral of laborers on any project for the construction of a highway to veterans who have the appropriate skills and abilities to perform the work required for the project.

Sec. 1723. Real-time ridesharing

This section amends 23 U.S.C. § 101(a)(2) by defining "real-time ridesharing" as a carpool project.

Sec. 1724. State autonomy for culvert pipe selection

This section requires the Secretary to modify section 635.411 of title 23 U.S.C. to ensure that states have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a federal-aid highway. This section shall not be construed to undermine or eliminate in whole or in part, competitive bidding requirements in section 112 of title 23 regarding highway construction.

Sec. 1725. Equal opportunity assessment

This section requires the Secretary to assess the extent to which nondiscrimination and equal opportunity exist in the construction and operation of federally funded transportation projects, programs, and activities.

TITLE II—PUBLIC TRANSPORTATION

Sec. 2001. Short title; amendments to title 49, United States Code

The short title is the "Public Transportation Act of 2012".

Amendments or repeals referenced in this section are to title 49, United States Code.

Sec. 2002. Definitions

This section amends 49 U.S.C. § 5302(a) general definitions to increase the amount of federal transit formula funding that a state or transit agency can expend for paratransit and other Americans with Disabilities Act transportation services from 10 to 15 percent of the recipient's annual formula apportionment. This section also adds a new defined term, "rural area", to describe an area of under 50,000 in population. This term is synonymous with the terms "nonurbanized areas" and "areas other than urbanized areas" otherwise utilized in this chapter.

Sec. 2003. Planning programs

This section makes minor amendments to 49 U.S.C. § 5305 to conform with the unified planning title.

Sec. 2004. Private enterprise participation

This section amends 49 U.S.C. § 5306(a) by striking ", as determined by local policies, criteria, and decision-making".

Sec. 2005. Urbanized area formula grants

This section amends 49 U.S.C. § 5307(b) regarding the general authority for urbanized area formula grants. Currently, only urbanized areas of less than 200,000 in population can utilize urbanized area formula grant funds for up to 50 percent of operating costs of equipment and facilities, after netting out fare-box reve-

nues. This amendment extends operating flexibility to small transit agencies operating in areas greater than 200,000 in population. Those agencies that operate fewer than 75 buses in peak service hours can utilize formula grant funds for up to 50 percent of net operating costs, and agencies that operate between 76 and 99 buses can utilize formula grant funds for up to 25 percent of net operating costs. This provision does not limit the amount of a transit agency's federal grant apportionment that can be used for operating expenses, rather, the federal funding limitation applies to the percentage of the net operating costs for the system's operations.

This section also strikes subparagraph (d)(1)(k) that requires transit agencies to expend 1 percent of urbanized area formula grant funds on transit enhancements.

Sec. 2006. Capital investment grants

This section amends 49 U.S.C. § 5309, rewriting the federal new start and small start program to simplify, streamline, and speed up the project development and evaluation process while retaining the program's competitive and mode-neutral character.

The new section 5309 language gives the Secretary the authority to make grants to assist state and local governments in financing new fixed guideway capital projects. There are two types of new fixed guideway capital projects: new start projects, which involve federal assistance under this section of more than $75 million, and small start projects, which involve less than $75 million federal assistance under this section and have a total project cost of less than $250 million. Section 5309 no longer includes authority for fixed guideway modernization projects; these projects are authorized under 49 U.S.C. § 5337. Section 5309 no longer includes authority for bus purchases for rehabilitation and replacement; these projects are now authorized in a formula program under 49 U.S.C. § 5310. The Secretary cannot approve a grant unless it is determined that the project is a part of a long-range transportation plan and the applicant has the necessary legal, financial, and technical capacity to carry out a project.

Subsection (d) directs that new start projects be carried out through a full funding grant agreement. Only projects that are authorized for project development, have been adopted in the local transportation plan as the locally preferred alternative, and are rated as high, medium-high, or medium can receive financial assistance. Project benefits are evaluated on the basis of cost effectiveness, mobility and accessibility benefits, congestion relief, reduction in energy consumption, economic development effects, and private contributions to the project. Local financial commitment is evaluated on the basis of adequate contingency funds, local funding sources for capital and operations that are stable and reliable, the use of private contributions and public-private partnerships, the extent to which the local financial commit exceeds the required match, and whether any elements of the total public transportation system have been or will be financed without federal funding. Each criteria is evaluated on a five-point scale, and all criteria must be given comparable, but not necessarily equal, numerical weight.

Subsection (e) sets the requirements and grant assistance criteria for small start projects. Projects that require less than $25 million in federal assistance under this section can be exempt from

the evaluation process, or can utilize special warrants to expedite the project's advancement through the evaluation process. Projects must be adopted as the locally preferred alternative in local transportation plans and have a local financial commitment that is stable and dependable. Project benefits are evaluated on the basis of cost effectiveness, mobility and accessibility benefits, congestion relief, and economic development effects. The Secretary is directed to assign a rating for each criterion on a five-point scale based on the benefits of the project and local financial commitment. The Secretary may execute an expedited grant agreement to include a commitment to provide funding for the project in future fiscal years if federal assistance cannot be provided in a single grant. The Secretary is required to notify the appropriate committees of Congress 10 days before making a grant award or agreement. Small starts projects include corridor-based bus projects if a majority of the project operates in a separate right-of-way during peak operating hours, or the project represents a substantial investment in a defined corridor.

Subsection (f) exempts projects that have already entered final design or that are under a letter of intent, early systems work agreement or a full funding grant agreement before the date of enactment from the new program requirements set forth in subsections (d) and (e).

Subsection (g) defines the rules for issuing letters of intent, full funding grant agreements, and early systems work agreements. For both full funding grant agreements and early system work agreements, repayment to the Government is required if the applicant does not carry out the project for reasons within the project sponsor's control. Before and after studies are required for each project, in order to compare estimated project costs, benefits, and ridership to actual data once the project has been built. The subsection limits the amount of contingent commitment authority for the post-authorization period to be equal to the total of the last three fiscal years of new start funding. Finally, this subsection requires a Congressional notification period of 21 days when a full funding grant agreement is to be entered into, and 10 days when a letter of intent or early system work agreement is to be entered into.

Subsection (h) directs the Secretary to estimate the net capital project cost of a new fixed guideway capital project. Grants shall be for 80 percent of the net capital project cost unless the grant recipient requests a lower grant percentage. However, project sponsors are incentivized to "overmatch" because it will improve the project's local financial commitment rating.

Subsection (i) grants the Secretary the power to pay the Government's share of the net capital project cost if the state or local authority carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements.

Subsection (j) establishes a period of availability for new fixed guideway capital projects of 3 fiscal years after the fiscal year in which the funds are appropriated. Unobligated funds after such period shall be rescinded and deposited in the General Fund of the Treasury for the sole use of deficit reduction.

Subsection (k) requires the Secretary to submit to Congress an annual report on funding recommendations for new start projects. It also requires a biennial GAO review of the Secretary's implementation of the fixed guideway capital project evaluation and rating process.

Subsection (l) requires the Secretary to submit to Congress a report containing a summary of the results of the before and after studies required under subsection (g)(2)(C).

Subsection (m) sets aside $150 million for each of fiscal years 2013 through 2016 for small start projects, with the remainder allocated for new start projects.

Subsection (n) requires the Secretary to develop and utilize special warrants to advance projects and provide federal assistance under this section. Special warrants may be utilized to advance new fixed guideway projects without requiring evaluations and ratings.

Subsection (o) directs the Secretary to issue regulations establishing new program requirements for the programs created under this section with 240 days of enactment of the Public Transportation Act of 2012.

Sec. 2007. Bus and bus facilities formula grants

This section amends 49 U.S.C. § 5310. The previous section 5310 program, formula grants for special needs of elderly individuals and individuals with disabilities, has been consolidated in the new coordinated access and mobility program under 49 U.S.C. § 5317. The new bus and bus facilities formula grants program directly replaces the previous 49 U.S.C. § 5309 discretionary bus and bus facilities grants program with a predictable formula, allowing states, transit agencies, and local governments to more effectively plan for bus fleet and facilities replacement and expansion.

The new section 5310 bus and bus facilities formula grant programs gives the Secretary the authority to assist states and local governmental authorities in financing capital projects to construct bus-related facilities and replace, rehabilitate and purchase buses and related equipment. Eligible recipients are providers of public transportation in urbanized areas that operate fixed route bus services but do not operate heavy rail, commuter rail, or light rail services. The effect of this limitation on eligibility is to direct more of the funding under this program to suburban and small urban systems. A recipient that receives a grant may allocate it to subrecipients that are public agencies, private companies, or private nonprofit organizations.

Grants under this section shall be distributed on a formula basis as provided in 49 U.S.C. § 5336 (other than subsection (b)). Capital project grants shall be for 80 percent of the net project cost of the project, though the recipient may provide additional local matching amounts.

Grants apportioned under this section are available for three years after the fiscal year in which the grant is apportioned, and grant funds that remain unobligated at the end of that period may be reapportioned the following fiscal year.

The chief executive officer of a state may transfer any part of the state's funds made available under this section to urbanized areas of less than 200,000 in population or to rural areas in the state.

Urbanized areas with a population of at least 200,000 may transfer a part of its grant funds to the chief executive officer of a state. 49 U.S.C. § 5302, § 5318, § 5323(a)(1), § 5323(d) and (f), § 5332, and § 5333 all apply to this section and to a grant made with funds apportioned under this section.

Sec. 2008. Rural area formula grants

This section amends 49 U.S.C. § 5311, formerly known as formula grants for other than urbanized areas. Subsection (b) sets forth program goals. Subsection (c) amends the rural transit assistance program, which provides onsite technical assistance to local and regional governments and agencies in rural areas, to require that contracts be competitively selected. Subsection (d) amends the apportionment formula to states, providing that 70 percent of funds be apportioned according to a state's rural population in ratio to the entire country's rural population; 20 percent be apportioned according to a state's rural land area in ratio to the entire country's rural land area; and 10 percent be apportioned according to service factors, including ridership and revenue vehicle miles. Apportioning a small percentage of funds according to service factors will incentivize states to improve rural transit system performance. Subsection (f) decreases the amount of grant funds under this section that a state can use for administrative expenses, planning, and technical assistance from 15 percent to 10 percent.

Subsection (h) amends subsection 5311(g) regarding Government's share of costs. The new provision allows states to use private intercity bus operator capital cost contributions towards feeder bus service and connecting unsubsidized intercity bus route segments as local match for intercity bus service carried out within a state and supported by funding under this section. This provision codifies a pilot program that has been carried out by the FTA since 2006, and will help states retain effective intercity bus routes, especially in rural areas.

Sec. 2009. Transit research

This section consolidates transit research programs currently spread through 49 U.S.C. § 5312, § 5313, § 5314, and § 5315 into a single transit research authorization. Amounts made available under 49 U.S.C. § 5338(c) for transit research under this section and for technical assistance and training under 49 U.S.C. § 5322 are available to the Secretary for grants, contracts, cooperative agreements, or other agreements. The Secretary is authorized to establish a Government share of project costs that is consistent with potential financial benefits to an entity under a research grant or contract. The transit cooperative research program formerly authorized under section 5313 is authorized in the new subsection (c). The National Transit Institute formerly authorized under 49 U.S.C. § 5315 is now authorized as a competitive program under 49 U.S.C. § 5322.

Sec. 2010. Coordinated access and mobility program formula grants

This section amends 49 U.S.C. § 5317 by consolidating three existing human service transportation formula grant programs into a single, flexible program. The 49 U.S.C. § 5310 formula grants for special needs of elderly individuals and individuals with disability,

49 U.S.C. § 5316 job access and reverse commute formula grants program, and 49 U.S.C. § 5317 New Freedom program are combined in the new Coordinated Access and Mobility Program (CAMP), which provides grants to states and designated recipients in urban areas with flexible human service transportation funding with consistent program eligibilities and requirements.

Subsection (a) includes definitions applicable to this section. Subsection (b) establishes the goals of the CAMP program. Subsection (c) lays out the general authority for grants made under this section, which are to provide public transportation services that meet the special transportation needs of elderly and disabled individuals, including new transit services that exceed the requirements of the Americans with Disabilities Act, and for job access and reverse commute transportation services.

Subsection (d) outlines the formula distribution of funds to grant recipients: 50 percent among designated recipients for urbanized areas with a population of 200,000 or more, 25 percent to states to serve areas populations of less than 200,000, and 25 percent to states to serve rural areas. The Governor of a state may make exceptions if he can certify that all of the objectives of this section are being met in the specified area. The Secretary may establish a minimum apportionment for states and territories.

Subsection (e) establishes a competitive grant process for states and urbanized area recipients of funds. Funds to carry out the activities selected to be funded under this competitive process can be allocated to subrecipients, including nonprofit organizations and private companies. Transportation services for the elderly and people with disabilities are to be carried out by nonprofit organizations or private companies unless a public agency is approved by the grant recipient to coordinate such transportation services, or the public agency certifies nonavailability of nonprofit or private providers of transportation. This is consistent with current law eligibilities under 49 U.S.C. § 5310(a)(2).

Subsection (f) directs the Secretary to apply grant requirements for the CAMP program that are consistent with the requirements of 49 U.S.C. § 5310, § 5316, and § 5317 as such sections were in effect before enactment. Subsection (g) lays out requirements that the national CAMP program and activities carried out at the local level that are funded through the CAMP program shall be coordinated with human service transportation activities funded through other federal departments and agencies. Subsection (h) establishes the federal share for the grant program, with capital projects eligible to use federal funds for 80 percent of the net capital costs of the project and operating assistance capped at 50 percent of the net operating costs of the project. The federal lands program sliding scale is applied to this federal match, meaning that states with large federal lands holdings have a slightly higher federal match.

Subsections (i) and (j) carry over current law language from 49 U.S.C. § 5310 regarding leasing vehicles and meal delivery for homebound individuals. Subsection (k) directs the Comptroller General to conduct two studies evaluating the CAMP grant program and submit the results to Congress, two and four years after enactment, respectively. The GAO studies shall include an analysis and description of how CAMP program grant activities are coordinated with transportation activities carried out with grants to state

and community programs on aging that are authorized under Title III of the Older Americans Act of 1965.

The Committee expects FTA to continue its practice of providing maximum flexibility to job access projects that are designed to meet the needs of individuals who are not effectively served by public transportation. The Committee recognizes the value of car loan and acquisition programs to improve access to jobs and services, including education and job training activities, and directs FTA to ensure the continued eligibility of car loan programs.

Sec. 2011. Training and technical assistance programs

This section amends 49 U.S.C. § 5322 by consolidating the authorization for national technical assistance. Subsection (c) incorporates the national training program under the National Transit Institute, formerly authorized under 49 U.S.C. § 5315, allowing the Secretary to competitively award grants or enter into contracts with a public university to establish a National Transit Institute to support training and educational programs for public transportation employees. Subsection (d) allows the Secretary to enter into competitively selected contracts or cooperative agreements to provide public transportation-related technical assistance in the areas of Americans with Disabilities Act compliance, coordinated human service transportation, meeting the transportation needs of the elderly, and additional areas of technical assistance, mobility management services, support services, training, and research that the Secretary determines will assist public transportation providers in meeting the goals of this section. Subsection (e) directs training and outreach programs and technical assistance to be paid for with funds authorized under 49 U.S.C. § 5338(c).

Sec. 2012. General provisions

Subsection (a) amends 49 U.S.C. § 5323(i) regarding the Government's share of costs for certain projects. A new paragraph (3) is added to this subsection that will incentivize a greater use of vanpool services by: (1) allowing public transit agencies and local governments to use vanpool passenger fare revenue in excess of operating costs as matching funds for federal transit grant funds, and (2) by allowing private vanpool operators to use passenger fare revenues in excess of operating costs for the acquisition of additional van equipment if the vans will be used only within the federal grant recipient's transportation service area. A new paragraph (4) is added to this subsection that incentivizes competitive contracting in public transportation by allowing a 90 percent federal share for federal transit capital grants if the transit agency or grant recipient competitively contracts at least 20 percent of its fixed route bus service. A maintenance of effort clause ensures that state and local funding for transit services must be maintained at a level at least equal to the average of the previous 3 fiscal years.

According to Transportation Research Board Special Report 258, "Contracting for Bus and Demand-Responsive Transit Services", 60 percent of federal transit funding recipients provide some portion of transit services through contract. Overall, contracting is much more common in demand-response human service transportation (76 percent) than in fixed-route bus service (15 percent). Additionally, about one-third of commuter rail services are contracted out.

Based on National Transit Database reporting, the cost savings from privately contracted services are substantial. On average, the operating cost per revenue mile for contracted fixed route bus service is $6.25, compared to $9.79 for directly operated service, a 36 percent cost savings. Competitive contracting can be a tool to maximize the value of federal investment in public transportation and help preserve needed transit services. The competitive contracting incentive language under section 5323(i)(4) does not in any way alter applicable labor protection requirements under this chapter.

Subsection (b) adds a new subsection (q) to 49 U.S.C. § 5323, requiring grant recipients to provide reasonable access for intercity and charter transportation operators to public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes.

Subsection (c) addresses an exemption from the general prohibition on public transportation agencies providing charter bus operations in competition with private bus operators under 49 U.S.C. 5323(d). For the last 3 fiscal years, a single public transit agency has been exempted from enforcement of the charter bus prohibition by a legislative general provision in the annual appropriations bill. This subsection provides that, if the Secretary is prohibited by law from enforcing the charter prohibition, a transit agency covered under this exemption shall be precluded from receiving its urbanized area formula grant funds for that fiscal year.

Sec. 2013. Contract requirements

This section amends 49 U.S.C. § 5325(h) by striking "Federal Public Transportation Act of 2005" and inserting "Public Transportation Act of 2012".

Sec. 2014. Veterans preference in transit construction

This section amends 49 U.S.C. § 5325 regarding contract requirements by adding a new subsection (k) requiring grant recipients to ensure that contractors utilizing federal transit grant funds give a hiring preference to veterans who have the requisite skills and abilities to perform the construction work required under the contract.

Sec. 2015. Private sector participation

This section amends chapter 53 of title 49, U.S.C. by including new language regarding private sector participation in public transportation. Under subsection (b), the Secretary is directed to take actions to promote better coordination between public and private sector providers of public transportation, by providing technical assistance to grant recipients on practices and methods to best utilize private providers and educating recipients on federal transit laws and regulations that impact private providers. Under subsection (c), upon request by a new start project sponsor, the Secretary is directed to provide technical assistance for alternative project delivery methods, including identifying best practices for public-private partnerships (P3's), development of standard P3 model contracts, and performing financial assessments to calculate the public and private benefits of a P3 transaction.

Subsection (c) requires the Secretary to identify provisions of chapter 53 of title 49, U.S.C. that impede greater use of P3's and

private investment in public transportation, and to procedures and approaches to address such impediments in a manner similar to FHWA's SEP–15 initiative. The Secretary is required to issue a rulemaking implementing the procedures and approaches developed under this new initiative, and to report to Congress four years after enactment on the status of the procedures and approaches developed and implemented under this subsection.

Subsection (d) requires the Comptroller General to submit a comprehensive report to Congress on the effect of contracting out public transportation operations and administrative functions on cost, availability and level of service, efficiency, and quality of service. This report shall be submitted to Congress one year after enactment.

Subsection (e) requires the Secretary to publish guidance in the Federal Register one year after enactment that describes for federal transit recipients the best way to document compliance with requirements regarding private enterprise participation in public transportation planning and transportation improvement programs.

Sec. 2016. Project management oversight

This section amends 49 U.S.C. § 5327(c)(1) by adding 2 new paragraphs to the end. New project management oversight (PMO) set-asides are established: 1 percent PMO set-aside for the fixed guideway modernization program under 49 U.S.C. § 5337, which is consistent with the current law set-aside for this program under 49 U.S.C. § 5309; and a 0.75 percent PMO set-aside for the CAMP program under 49 U.S.C. § 5317.

Sec. 2017. State safety oversight

This section amends 49 U.S.C. § 5330(b). It allows the Secretary to require that up to 100 percent of the amount made available in a state or urbanized area under 49 U.S.C. § 5307 be utilized on capital safety improvement and state of good repair projects on the state or urbanized area's fixed guideway transit systems before any other transit capital project is undertaken if the state has not met certain requirements. The requirements are that there be a state safety oversight agency (SSOA) that has been certified by the Secretary as meeting standards of adequate technical capacity, personnel resources, and authority under relevant state laws to successfully perform safety oversight for rail transit systems in the state.

Sec. 2018. Apportionment of appropriations for formula grants

Subsection (a) amends 49 U.S.C. § 5336(i) to modify the apportionment amounts of urbanized area formula grant funds. The set-aside for small transit intensive cities (transit systems that exceed the national average in service factors such as ridership and vehicle revenue miles) is increased to a 2 percent set-aside. An additional 1 percent of the urbanized area formula grants program funding is set aside for apportionment to SSOAs in states that have rail transit systems not otherwise under the oversight of the FRA (e.g. light rail and subway systems, but not commuter rail systems).

Subsection (b) adds a new subsection (k) to the end of 49 U.S.C. § 5336, authorizing the state safety oversight formula. Under this authorization, federal funds will be directly apportioned to SSOAs on the basis of a formula to be established by the Secretary that takes into account service factors such as vehicle revenue miles, route miles, and passenger miles. Funds may be used by SSOAs for operational and administrative expenses, including employee training, to assist the SSOA in carrying out its safety oversight responsibilities. The Secretary is required to certify whether each SSOA has met the standards of adequate technical capacity, personnel resources, and authority under relevant state laws to successfully perform safety oversight for rail transit systems in its state. If certification is denied, the Secretary can require that up to 100 percent of the amount made available for use in a state or urbanized area under 49 U.S.C. § 5307 be utilized on capital safety improvement and state of good repair projects on the state's rail transit systems before any other transit capital project is undertaken. An annual report from the Secretary is required, including amounts of funds apportioned under this authorization and the certification status of each SSOA, including what steps an agency that has been denied certification must take to be so certified.

Sec. 2019. Fixed guideway modernization formula grants

This section amends 49 U.S.C. § 5337 by inserting two new subsections to establish the general authority and program goals of the fixed guideway modernization program. A new subsection 5337(i) is added to end of the section that establishes procedures to be followed if recipients undertake a fixed guideway modernization project in advance, consistent with current law.

Sec. 2020. Authorizations

This section amends FTA program authorizations under 49 U.S.C. § 5338. In subsection (a), apportionments for formula and bus programs are authorized. For each of fiscal years 2013 through 2016, $8,400,000,000 is available from the Alternative Transportation Account to carry out metropolitan and state transportation planning (49 U.S.C. § 5305), urbanized area formula grants (49 U.S.C. § 5307), bus and bus facilities formula grants (49 U.S.C. § 5310), rural area formula grants (49 U.S.C. § 5311), coordinated access and mobility program formula grants (49 U.S.C. § 5317), bus testing (49 U.S.C. § 5318) state safety oversight (49 U.S.C. § 5330), national transit database activities (49 U.S.C. § 5335), and fixed guideway modernization formula grants (49 U.S.C. § 5337).

Subsection (b) authorizes $1,955,000,000 annually for capital investment grants (new start and small start projects) under 49 U.S.C. § 5309(m)(2) for fiscal years 2013 through 2016, to be appropriated from the General Fund of the Treasury.

Subsection (c) authorizes $45,000,000 annually for research, training and outreach, and technical assistance projects under 49 U.S.C. § 5312 and § 5322 for fiscal years 2013 through 2016, to be appropriated from the General Fund of the Treasury.

Subsection (d) authorizes $98,000,000 annually for FTA administrative expenses under 49 U.S.C. § 5326 and § 5334 for fiscal years 2013 through 2016, to be appropriated from the General Fund of the Treasury.

Subsection (e) states that activities under this chapter that are financed with amounts made available from the Alternative Transportation Account of the Highway Trust Fund are contractual obligations of the Government, commonly referred to as contract authority. Activities under this chapter financed with amounts appropriated from the General Fund of the Treasury are contractual obligations of the Government only to the extent that amounts are appropriated for such purpose in the annual appropriations process.

Sec. 2021. Obligation limits

This section sets a total annual obligation limitation for amounts made available from the Alternative Transportation Account and amounts from the General Fund of the Treasury not to exceed $10,498,000,000 for each of fiscal years 2013 through 2016. Not more than $8,400,000,000 shall be from the Alternative Transportation Account.

Sec. 2022. Program elimination and consolidation

This section repeals and amends current-law FTA programs. Repeals or amendments made by this section do not affect funds made available before the effective date of the repeal. The following programs are repealed or amended:

- 49 U.S.C. § 5308, Clean Fuels Discretionary Grant Program, is repealed.
- 49 U.S.C. § 5327(c) and 49 U.S.C. § 31138(e)(4) are amended to conform citations within the subsection.
- 49 U.S.C. § 5311(c)(1), Public Transportation on Indian Reservations, is repealed.
- 49 U.S.C. § 5313, Transit Cooperative Research Program, is repealed.
- 49 U.S.C. § 5314, National Research Programs, is repealed.
- 49 U.S.C. § 5315, National Transit Institute, is repealed.
- 49 U.S.C. § 3519, Bicycle Facilities, is amended by striking the last sentence.
- 49 U.S.C. § 5316, Job Access and Reverse Commute Formula Grants, is repealed.
- 49 U.S.C. § 5320, Paul S. Sarbanes Transit in the Parks Program, is repealed.
- 49 U.S.C. § 5323(e)(4), Debt Service Reserve Pilot Program, is repealed.
- 49 U.S.C. § 5328, Project Review, is amended by striking subsection (c), Program of Interrelated Projects.
- 49 U.S.C. § 5339, Alternatives Analysis, is repealed.
- 49 U.S.C. § 5340, Apportionments based on growing states and high density states formula factors, is repealed.
- Section 3009 of SAFETEA–LU is amended by striking subsection (i), Contracted Paratransit Pilot program.
- Section 3012(b) of SAFETEA–LU, Elderly Individuals and Individuals with Disabilities Pilot Program, is repealed.
- Section 3045 of SAFETEA–LU, National Fuel Cell Bus Technology Development Program, is repealed.
- Section 3046 of SAFETEA–LU, Allocations for National Research and Technology Programs, is repealed.

• Section 3038 of TEA–21, Over-the-Road Bus Accessibility Program, is repealed.

Sec. 2023. Evaluation and report

This section requires the Comptroller General to evaluate the progress and effectiveness of FTA's assistance to grant recipients in complying with the prohibition under 49 U.S.C. § 5332(b) against discrimination on the basis of race, color, creed, national origin, sex or age under any project, program or activity receiving federal transit funds. The report shall describe FTA's ability to address discrimination and foster equal opportunities in federally-funded transit projects and programs, and recommend improvements if necessary.

Sec. 2024. Transit Buy America provisions

This section amends 49 U.S.C. § 5323(j) by adding two new paragraphs to the Buy America requirements for federally-funded transit projects. Paragraph (10) applies the Buy America requirements to all contracts for a project that are within the scope of the project's NEPA determination, regardless of whether all elements of the project within such scope involve federal transit funds. Paragraph (11) sets additional requirements for FTA waivers of transit Buy America requirements, including full notice and comment opportunity and a detailed justification for any waiver that addresses the public comments received. Such justification shall be published before the waiver takes effect.

TITLE III—ENVIRONMENTAL STREAMLINING

The American Energy and Infrastructure Jobs Act of 2012 streamlines the environmental review process in order to speed up project delivery and greatly reduce the time it takes to complete infrastructure projects. The Act refines and expands upon previous streamlining efforts to help deliver infrastructure projects and programs more quickly with better outcomes:

Sec. 3001. Amendments to title 23, United States Code

This section provides that all repeals or amendments to sections or provisions in title III of the bill shall be to title 23, United States Code.

Sec. 3002. Declaration of policy

This section amends 23 U.S.C. § 101(b) to make it clear that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process.

Sec. 3003. Exemption in emergencies

This section exempts the reconstruction of a road, highway, or bridge damaged by a declared emergency or disaster from a NEPA and other specified environmental review, approval, licensing, and permit requirements if the reconstruction is in the same location with the same specifications as the facility had before it was damaged.

Sec. 3004. Advance acquisition of real property interests

This section amends 23 U.S.C. § 108 to permit states to acquire real property interests for a project using their own funds and at their own risk before the completion of NEPA without jeopardizing subsequent approval of the project. The acquisition is eligible for federal reimbursement once the project is approved. In addition, this section adds a new subsection (d) to allow states to acquire real property interests for a project using federal funds once a NEPA review is complete for the acquisition. This section also adds a new subsection (e) that encourages corridor preservation to reduce project costs, project delay, and impacts on the community.

Sec. 3005. Standards

This section amends 23 U.S.C. § 109 to allow detailed design prior to NEPA completion at the state's expense for traditional design-bid-build projects. The design work is eligible for federal reimbursement once the project is approved.

Sec. 3006. Letting of contracts

This section amends 23 U.S.C. § 112 to allow detailed design prior to NEPA completion at the state's expense for design-build projects. The design work is eligible for federal reimbursement once the project is approved. This section also authorizes the use of the construction manager/general contractor method of contracting in the federal-aid highway program.

Sec. 3007. Elimination of duplication in historic preservation requirements

This section amends 23 U.S.C. § 138 and 49 U.S.C. § 303 to allow approvals and clearances for historic property secured by a transportation project sponsor under section 106 of the National Historic Preservation Act to meet the historic preservation requirements in section 4(f) of the U.S. Department of Transportation Act of 1966.

Sec. 3008. Funding threshold

This section amends 23 U.S.C. § 139(b) to set the minimum threshold for federal funding to trigger environmental reviews under NEPA. Federal funding triggers federal environmental reviews only where there is a substantial level of federal involvement. The de minimis threshold is defined in two ways: (1) as a total amount (more than $10,000,000) and (2) as a percentage of total project costs (16% or more).

Sec. 3009. Efficient environmental reviews for project decision making

This section further amends 23 U.S.C. § 139 to eliminate duplication by providing a single system to review decisions and reduce bureaucratic delay by setting deadlines for the completion of environmental reviews. Section 139, added in SAFETEA–LU, established a new "environmental review process" for all projects for which an environmental impact statement (EIS) is prepared by the USDOT. This process remains vulnerable to delay. This section amends section 139 to further streamline the environmental review process. More specifically, this section amends the following subsections of section 139:

Section 139(b) is amended to permit the Secretary, at the request of the state, to modify the review procedures under section 139 to encourage the use of programmatic approaches and strategies to meet environmental program and permit requirements.

Section 139(c) is amended to strengthen the role of lead agencies in the environmental review process. In cases where approval is required from multiple modal administrations within DOT, the Secretary shall designate a single modal administration as the lead federal agency.

Section 139(d) is amended to require each participating and cooperating agency to carry out its project review process concurrently, rather than consecutively, with the NEPA process.

Section 139(e) is amended to streamline the project initiation process by eliminating the requirement for the project sponsor to submit a project initiation notice.

Section 139(f) is amended to narrow the range of alternatives to be considered for a project. In addition, this section limits the comments of participating agencies to their area of authority and expertise. This section also prohibits an agency from reevaluating impacts that have been previously evaluated in prior environmental documents. This section promotes effective decision-making by requiring other federal agencies to accept the purpose and need and range of alternatives as determined by the lead agency if they do not object within a defined comment period.

Section 139(g) is amended to set deadlines for decisions of participating agencies under other environmental laws. If an agency does not meet a deadline, the project is deemed approved by that agency. Additionally, this section adds a new subsection (i) to streamline the process by condensing the final environmental impact statement and combining it with the record of decision.

The new section 139(j) prohibits an agency from requiring a supplemental environmental review once a record of decision or finding of no significant impact is made unless there are changes to the project, new information available or changes in circumstances that would result in new significant impacts that were not previously evaluated. In addition, the Secretary may only require a reevaluation of a document prepared under NEPA if there are substantial changes to the project that would result in new significant impacts that were not previously evaluated. Additionally, the Secretary may not require the record of decision to be changed solely because the project is no longer a priority for funding.

Subsection (m) requires the Secretary to implement this section and establish methodologies and procedures for evaluating impact of transportation projects subject to this section within 1–year of enactment of this Act.

Section 139(n) is amended to require the filing of a claim for judicial review within 90 days of a final action under NEPA.

Finally, this section adds a new subsection (o) to place limitations on judicial review.

Sec. 3010. Disposal of historic properties

This section amends 23 U.S.C. § 156 to allow state transportation departments to sell surplus property that is not listed on the National Register of Historic Places without having to consider the sale an adverse impact. State transportation departments would

still have to consider the adverse impact of properties that are listed on the Register; however, properties that are eligible but not actually on the Register would not require the analysis.

Sec. 3011. Integration of planning and environmental review

This section adds a new section 167 to title 23, U.S.C. that promotes the integration of planning and the environmental review process by allowing environmental decisions made in the planning process to be carried forward into the NEPA process. In addition, this section promotes programmatic approaches by clarifying the authority for programmatic approaches and strategies rather than project-by-project reviews.

Sec. 3012. Development of programmatic mitigation plans

This section adds a new section 168 to title 23, U.S.C that improves process efficiency and funding flexibility for early or advanced mitigation and encourages mitigating impacts to natural resources at the program level.

Sec. 3013. State assumption of responsibility for categorical exclusions

This section amends 23 U.S.C. § 326 to allow the assignment of responsibility for all categorical exclusions to the states. Additionally, it allows the states to assume USDOT responsibilities without reducing the flexibility to use other project delivery methods, such as acquiring real property interests and performing design work prior to the completion of the NEPA process.

Sec. 3014. Surface transportation project delivery program

This section amends 23 U.S.C. § 327 to make permanent the existing environmental delegation pilot program and allow all states the option to participate. Additionally, it allows the states to assume USDOT responsibilities without reducing the flexibility to use other project delivery methods, such as acquiring real property interests and performing design work prior to the completion of the NEPA process. It clarifies that a state can assume USDOT's responsibility for making conformity determinations under the Clean Air Act, along with all other environmental review responsibilities.

Sec. 3015. Program for eliminating duplication of environmental reviews

This section adds a new section 331 to title 23, U.S.C. that eliminates duplication of environmental reviews by allowing states to use state environmental requirements in the place of federal requirements as long as the state's environmental requirements meet or exceed federal requirements.

The Committee expects that this program will provide opportunities to expedite transportation project delivery by eliminating duplicative state and federal environmental review procedures. The Secretary will be responsible for determining whether the alternative environmental review and approval procedures of the state are substantially equivalent to applicable federal laws and regulations. Furthermore, it is the Committee's expectation that units of local government and local transportation agencies that are respon-

sible for carrying out the environmental review process required by state law will be permitted to participate in this program.

Sec. 3016. State performance of legal sufficiency reviews

This section adds a new section 332 to title 23, U.S.C. that allows a state to self-certify the legal sufficiency of a NEPA document for a federal-aid highway project. Additionally, this provision would allow FHWA in certain circumstances to conduct its own independent legal sufficiency review.

Sec. 3017. Categorical exclusions

This section classifies projects in the right-of-way as categorical exclusions under NEPA.

Sec. 3018. Environmental review process deadline

This section requires the completion of the environmental review process within 270 days after the project initiation notice is published.

Sec. 3019. Relocation assistance

This section streamlines the relocation process by requiring the Secretary to establish an alternative relocation payment process to allow a lump-sum payment for acquisition and relocation where elected by the displaced occupant. The payment would be based upon just compensation for property acquired and estimated eligible relocation benefits calculated in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. In addition, this section amends the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to update assistance amounts based on inflation.

TITLE IV—TRANSPORTATION PLANNING

Sec. 4001. Transportation planning

Subsection (a) inserts a new Chapter 52—Transportation Planning—in title 49 of the United States Code. Chapter 52 consolidates the metropolitan and state planning provisions of titles 23 and 49 to provide a common transportation planning program to be administered by the FHWA and FTA. More specifically section 4001 adds the following sections to Chapter 52 of title 49:

CHAPTER 52—TRANSPORTATION PLANNING

Sec. 5201. Policy

This section combines the policy provisions of 23 U.S.C. § 134 and 49 U.S.C. § 5303. In addition, the section clarifies that the intent of this new chapter is to provide a common transportation planning program to be administered by FHWA and FTA.

Sec. 5202. Definitions

This section combines the definition provisions of 23 U.S.C. § 134 and 49 U.S.C. § 5303. This section defines regional transportation planning organization.

Sec. 5203. Metropolitan Transportation Planning

This section combines the existing language in 23 U.S.C. § 134 and 49 U.S.C. § 5303.

"23 U.S.C. § 5203(a). General Requirements

This subsection ensures that when the plans and transportation improvement programs of a metropolitan area provide for the development and integrated management and operation of transportation systems and facilities, those facilities include intermodal facilities that support intercity transportation, and intercity bus and intercity bus facilities.

"23 U.S.C. § 5203(b). Designation of metropolitan planning organizations

This subsection changes the population threshold for the designation of a metropolitan planning organization from 50,000 to 100,000 individuals. This subsection also restores language to allow the designation of a metropolitan planning organization to be revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under state or local procedures.

"23 U.S.C. § 5203(d). Coordination of multistate areas

This subsection repeals the Tahoe Regional Planning Process.

"23 U.S.C. § 5203(f). Scope of planning process

This subsection directs metropolitan planning organizations to consider projects and strategies that support the economic vitality of the metropolitan area, increase the safety and security of the transportation system, increase the accessibility and mobility of people and for freight, protect and enhance the environment, enhance the integration and connectivity of the transportation system, promote efficient system management and operation, emphasize preservation and support intermodal facilities and facilitate regional growth as part of the planning process. The Committee believes access to natural resources essential to the built environment is important to economic vitality and should be considered in the planning process. The failure of a metropolitan planning organization to consider the listed factors may not be reviewed by any court.

"23 U.S.C. § 5203(g). Development of long-range transportation plan

This subsection requires the metropolitan planning organization in formulating the long-range transportation plan to consider factors, including other relevant data and factors disseminated by the Secretary under the National Strategic Transportation Plan requirements in section 5205(b). It also directs the metropolitan planning organization to consider the role of intercity buses as part of developing a long-range transportation plan.

"23 U.S.C. § 5203(h). Metropolitan TIP

This subsection includes intermodal facilities that support intercity transportation as a part of the publication of annual listings

of projects. In addition, this subsection allows a Governor to modify the transportation improvement program if the state and metropolitan planning organization cannot agree on an Interstate project of statewide significance. This subsection also directs the metropolitan planning organization to modify the long-range transportation plan to be consistent with the transportation improvement program.

Sec. 5204. Statewide transportation planning

This section combines the language from 23 U.S.C. § 135 and 49 U.S.C. § 5304.

"23 U.S.C. § 5204(a). General requirements

This subsection ensures that when the plans and transportation improvement programs of a state provide for the development and integrated management and operation of transportation systems and facilities, those facilities include intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities.

"23 U.S.C. § 5204(e). Additional requirements

This subsection strengthens the requirement for states to partner with rural local officials or regional transportation planning organizations by requiring cooperation instead of only consideration of their concerns.

"23 U.S.C. § 5204(f). Statewide strategic long-range transportation plan

This subsection lists the requirements for a statewide strategic long-range transportation plan, including requiring states to:

- consider data and factors disseminated by the Secretary under the National Strategic Transportation Plan requirements in section 5205(b),
- identify transportation projects that are of statewide, regional, and national importance and estimates of the costs of those projects,
- for states that have an airport with at least 1 percent of all delayed aircraft operations in the United States, include measures to alleviate congestion at that airport,
- for states with rail corridors that are at or exceed capacity, include measures to relieve congestion in its freight rail corridors,
- for states with deep draft ports, take into account projected expansion and increase in shipping traffic at those ports,
- for states with navigable inland waterways, include plans to facilitate transportation using navigable inland waterways,
- in developing plan, ensure interconnectivity between facilities and modes.

This subsection requires the statewide strategic long-range transportation plan to be developed in cooperation with affected local officials of nonmetropolitan areas with responsibility for transportation or, if applicable, through regional transportation planning organizations. This subsection directs the plan to consider the role intercity buses play in reducing congestion, pollution, and energy consumption in a cost-effective manner and the strategies and in-

vestments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

"23 U.S.C. § 5204(g). Statewide transportation improvement program

This subsection requires the state to develop the transportation improvement program in cooperation with local officials of nonmetropolitan areas with responsibility for transportation or, if applicable through regional transportation planning organizations.

"23 U.S.C. § 5204(k). Designation of regional transportation planning organizations

The bill adds subsection (k) authorizing a state to establish and designate regional transportation planning organizations in order to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and programs. This subsection requires the structure of a regional transportation planning organization to be a multi-jurisdictional, voluntary organization of nonmetropolitan local officials. This subsection lays out the minimum requirements for a regional transportation planning organizations including, a policy committee and a fiscal and administrative agent. Additionally, this subsection lists the duties of a regional planning organization. For states that do not establish a regional transportation planning organization, the state is required to consult with local officials to determine projects that may be of regional significance.

Sec. 5205. National strategic transportation plan

Section 5205 is added to ensure the Secretary, in consultation with state departments of transportation, develop a national strategic transportation plan.

Sec. 5206. National performance management system

Section 5206 requires the Secretary to establish a national performance management system to track the nation's progress toward broad national performance goals for the nation's highway and transit systems. The Secretary is directed to establish core performance measures in collaboration with the states, metropolitan planning organizations, and public transportation agencies. States are directed to establish performance targets in their long-range transportation plan.

Sec. 4002. Special rules for small metropolitan planning organizations

This section grandfathers in as a metropolitan planning organization those organizations in an urbanized area with a population between 50,000 and 100,000.

Sec. 4003. Financial plans

This section directs the Secretary to revise the planning regulations relating to financial plan requirements.

Sec. 4004. Plan update

This section requires states to update their statewide strategic long-range transportation plan to comply with the amended planning requirements.

Sec. 4005. State planning and research funding for title 23

This section amends 23 U.S.C. § 505 to include research activities related to intercity bus systems as an eligible expenditure under the state planning and research program.

Sec. 4006. National academy of sciences study

This section directs the Secretary to enter into arrangements with the National Academy of Sciences to conduct a study on the implementation of the performance measurement process.

TITLE V—HIGHWAY SAFETY

Sec. 5001. Amendments to title 23, United States Code

All repeals or amendments to sections or provisions in this title shall be made to title 23, United States Code.

Sec. 5002. Authorization of appropriations

This section authorizes appropriations out of the Highway Trust Fund for section 402, section 303 of title 49 and administrative and operating expenses for the National Highway Traffic Safety Administration (NHTSA) to carry out chapter 4 of title 23. Amounts made available for chapter 4 of title 23 can only be used to carry out the programs in chapter 4 and cannot be used for construction purposes, unless otherwise provided. Funds made available by this section shall be available for obligation and administered in the same manner as chapter 1 of title 23.

Sec. 5003. Highway safety programs

Subsection (a) amends 23 U.S.C. § 402(a). Subsection (a) requires each state to have a highway safety program. Guidelines are established for each state's highway safety program. The program requires each state to have an effective record system of traffic crash information and requires the state program be applicable to federally administered areas.

Subsection (b) amends 23 U.S.C. § 402(b). Subsection (b) changes "national law enforcement mobilizations" to a broader term. New subparagraphs (F), (G) and (H) are added at the end of subsection (b)(1) to incorporate requirements for highway safety data and traffic records systems as part of each state's highway safety program. Subsection (b)(3) is removed.

Subsection (c) amends 23 U.S.C. § 402(c). Subsection (c) changes the apportionment formula to reward states that have primary enforcement safety belt laws, ignition interlock laws, and graduated driver's licensing laws with more apportionment funds. Each state with a highway safety improvement program receives apportioned funds based on population and road mileage. Paragraph (3) establishes minimum apportionment criteria for states, the Secretary of the Interior and the U.S. territories. Paragraph (4) establishes approval criteria for each state's highway safety program for the Secretary. If a state has more than 0.5 alcohol impaired driving fatali-

ties per 100,000,000 vehicle miles traveled for the most recent 3 year period, that state is required to spend a percentage of their apportionment on projects and activities addressing impaired driving. States are prohibited from using their apportioned funds under this section for any programs involving an automated traffic enforcement system. The definition of "automated traffic enforcement system" should include red light cameras, speed cameras, and automated license plate readers. This section is not intended to diminish or preclude enforcement of commercial motor vehicle regulations under title 23 or title 49.

Subsection (d) amends 23 U.S.C. § 402(d), (e), (f), and (g) by inserting subsection headings in 402(d), (e), (f) and (g). Subsection (k) is repealed.

Subsection (e) adds a new subparagraph (m) that requires states to establish performance targets to be incorporated into each state's highway safety plan. The performance targets are based on the following set of performance measures: the annual number of traffic fatalities and serious injuries resulting from traffic crashes, the annual number of traffic fatalities and serious injuries involving drivers with a blood alcohol content of .08 or above, the annual number of unrestrained motor vehicle occupant fatalities and the annual number of motorcyclist fatalities. A new subsection (n) is added that establishes the requirements that each state's highway safety plan must meet. If a state fails to meet their performance targets, they will be required to spend more of their apportionment on projects and activities that address a specific safety area. A new subsection (o) is added that requires the Secretary to submit a report to Congress that evaluates each state's performance with respect to the performance targets set by each state and any improvements the Secretary may recommend. A new subsection (p) provides definitions for terms used in this section. The definition of "graduated drivers licensing law" should not be construed to prevent states from having more restrictive graduated drivers licensing laws. If in the Secretary's judgment, a state is more restrictive than the provisions in the definition, than such state should qualify for funding under subsection (c)(2)(E). The definition of "ignition interlock law" should be interpreted to include any state that has enacted and is enforcing any law that mandates the installation of an ignition interlock device for drivers convicted of driving with a blood alcohol content of 0.08 or higher. If a state has a mandatory ignition interlock law for drivers convicted of driving with a high blood alcohol content, states with such a law shall qualify under this definition.

Sec. 5004. Use of certain funds made available for administrative expenses

This section amends 23 U.S.C. § 403 by authorizing the Secretary to conduct highway safety research and establish a high visibility enforcement program out of administrative expenses. A minimum amount of the allocation for administrative expenses shall be spent on activities under this section.

Sec. 5005. Repeal of programs

This section repeals the following sections:

- 23 U.S.C. § 405, the Occupant Protection Incentive Grants program
- 23 U.S.C. § 406, Safety Belt Performance Grants program
- 23 U.S.C. § 407, Innovative Project Grants program
- 23 U.S.C. § 408, State Traffic Safety Information System Improvement program
- 23 U.S.C. § 410, Alcohol-Impaired Driving Countermeasures
- 23 U.S.C. § 411, State Highway Safety Data Improvements program
- Section 2009 of SAFETEA–LU, High Visibility Enforcement program
- Section 2010 of SAFETEA–LU, Motorcyclist Safety program
- Section 2011, Child Safety and Child Booster Seat Incentive Grants program
- Section 2013 of SAFETEA–LU, Drug-Impaired Driving Enforcement program
- Section 2014 of SAFETEA–LU, First Responder Vehicle Safety program
- Section 2016 of SAFETEA–LU, Rural State Emergency Medical Services Optimization Pilot program
- Section 2017 of SAFETEA–LU, Older Driver Safety; Law Enforcement Training program

Sec. 5006. Discovery and admission as evidence of certain reports and surveys

This section incorporates 23 U.S.C. § 402 into 23 U.S.C. § 409.

Sec. 5007. Prohibition on funds to check helmet usage or create checkpoints for a motorcycle driver or passenger

This section prohibits the Secretary from awarding grants or providing funding for any programs that check helmet usage or create checkpoints for motorcycle drivers.

Sec. 5008. National driver register

This section requires the Secretary to establish and implement procedures to ensure timeliness and accuracy of data submitted by states to the National Driver Register. Also, requires the Secretary to submit a report to Congress on the timeliness and completeness of data submitted by states into the Nation Driver Register and an analysis of DOT's efforts to monitor compliance with reporting requirements.

TITLE VI—COMMERCIAL MOTOR VEHICLE SAFETY

Sec. 6001. Short title

This section provides that the short title for title VI of the legislation is the "Motor Carrier Safety, Efficiency, and Accountability Act of 2011".

Sec. 6002. Amendments to title 49, United States Code

This section provides that all repeals or amendments to sections or provisions in this title are to title 49, United States Code.

Subtitle A—Authorization of Appropriations

Sec. 6101. Motor carrier safety grants

This section amends 49 U.S.C. § 31104 to provide funding for motor carriers safety grants and to pay the administrative expenses of the Federal Motor Carrier Safety Administration (FMCSA).

Specifically, subsection (a) provides $247,000,000 each year for fiscal years 2013 through 2016 from the Highway Trust Fund to provide grants to states under the Motor Carrier Safety Assistance Program (MCSAP) in section 31102.

Subsection (b) continues to allow the Secretary to deduct 1.25 percent or less of the MCSAP funds for administrative expenses to carry out the program. The section continues to require the Secretary to use 75 percent of these funds for the training of non-federal employees with responsibilities under the program.

Subsection (c) codifies a state funding formula for distributing MCSAP funds. Currently the funding formula for MCSAP is in the federal motor carrier safety regulations. Codifying the funding formula will allow states to implement long-term strategies to improve commercial motor vehicle safety. The subsection sets a minimum and maximum allocation for states and allocates that each territory will receive $350,000 annually.

Subsection (d) provides $244,144,000 each year for fiscal years 2013 through 2016 from the Highway Trust Fund to pay the administrative expenses of the FMCSA. In addition, the subsection an outreach and education program administered by the FMCSA to educate commercial motor vehicle drivers and passenger vehicle drivers how they can operate safely and share the road with each other.

Sec. 6102. Grant programs

This section provides $30,000,000 each year for fiscal years 2013 through 2016 from the Highway Trust Fund to provide grants to states for the Commercial Driver's License Program Implementation under 49 U.S.C. § 31313. In addition, this section provides $30,000,000 each year for fiscal years 2013 through 2016 from the Highway Trust Fund to carry out the Commercial Vehicle Information Systems and Networks (CVISN) deployment program under section 4126 of SAFETEA–LU. The amounts made available under this section are to remain available until they are expended and are available for obligation either on their date of allocation, or on the first day of the fiscal year, whichever occurs first.

Subtitle B—Registration

Sec. 6201. Registration requirements

This section amends 49 U.S.C. § 13901 to require the Secretary to provide a distinctive registration number indicating the type of transportation or service to be provided (e.g.; motor carrier, freight forwarder, or broker). Subsection (b) adds a new section 13909 to chapter 139 that directs the Secretary to make information relating to registration and financial security publicly available on the internet.

Sec. 6202. Motor carrier registration

Subsection (a) amends 49 U.S.C. § 13902(a)(1) to add three new requirements for registration as a motor carrier. This section requires motor carriers to demonstrate knowledge through a proficiency exam, of safety, accessibility, and financial responsibility requirements prior to being granted the authority to operate in interstate commerce by the Secretary. In addition, a motor carrier must disclose to the Secretary any relationship between the applicant and another motor carrier and have a valid DOT number. This subsection requires a motor carrier to register separately as a broker in order to broker transportation services.

Subsection (b) amends 49 U.S.C. § 13902(a)(2) to add two new requirements for registration as a household goods motor carrier. In addition, each registrant must undergo a household goods audit. The registrant may submit a corrective action plan that addresses deficiencies if they fail the audit. This section provides that a registration is provisional until the audit is successfully completed and becomes permanent upon passage of the audit or a satisfactory corrective action plan.

Sec. 6203. Registration of freight forwarders and brokers

Subsection (a) amends 49 U.S.C. § 13903 to add to the registration requirements to be a freight forwarder. This subsection sets an experience and training requirement to be a freight forwarder. This subsection requires a freight forwarder to register separately in order to provide transportation as a motor carrier.

Subsection (b) amends 49 U.S.C. § 13904 to add to the registration requirements to be a broker. This subsection sets an experience and training requirement to be a broker. This subsection requires a broker to register separately in order to provide transportation as a motor carrier. This subsection requires the Secretary to include the protection of motor carriers in regulations for brokers.

Sec. 6204. Effective periods of registration

This section amends 49 U.S.C. § 13905(c) to direct the Secretary to require the registration for freight forwarders and brokers to be renewed no later than 4 years after the date of enactment of this Act. In addition this section directs that the registration for freight forwarders and brokers will expire no later than 5 years after the date of renewal, but can be further renewed. This section requires motor carriers, freight forwarders, and brokers to update their registration information within 30 days of any change in essential information.

Sec. 6205. Reincarnated carriers

This section amends 49 U.S.C. § 13905(d) by adding the authority for the Secretary to deny, suspend, amend, or revoke any part of a motor carrier's registration for failure disclose in its application information related to its willingness and ability to comply with an applicable law or regulation or a condition of its registration. In addition this section amends 49 U.S.C. § 31135 to prohibit two or more employers from using common ownership, common management, common control, or common familial relationship to avoid compliance with commercial motor vehicle safety regulations. The Secretary is directed to deny, suspend, amend, or revoke all or part

of the employer's registration and determine civil penalty amounts. Additionally, this section amends 49 U.S.C. § 31106(a)(3) to require the Secretary to develop information systems that can determine whether a motor carrier is or has been related to any other motor carrier through common ownership, management, or familial relationship.

Sec. 6206. Financial security of brokers and freight forwarders

This section amends 49 U.S.C. § 13906 to amend the financial security requirements for brokers and freight forwarders. This section requires financial security in the form and an amount to be adequate to ensure financial responsibility. This section sets the scope of financial responsibility for brokers and freight forwarders to be able to pay any claim arising from the failure to pay freight charges under a contract, agreement, or arrangement for transportation. This section requires a broker or freight forward to provide a minimum financial security of $100,000, and directs the Secretary to evaluate that amount every five years. The Secretary is directed to suspend registration if the available financial security falls below the minimum amount. This section directs the Inspector General of DOT to review the Secretary's regulations and enforcement practices for financial security requirements.

Sec. 6207. Registration fee system

This section amends 49 U.S.C. § 13908(d)(1) to require registration fees to be as close as possible to covering the costs of processing the registration.

Sec. 6208. Unlawful brokerage activities

This section amends chapter 149 by inserting a new section at the end, section 14916. Under this new section, an individual is authorized to provide interstate brokerage services only if they are registered and have satisfied the financial security requirements. Non-vessel-operating common carriers, ocean freight forwarders, customs brokers, and indirect air carriers are exempted from this requirement if they are arranging transportation as part of an international through movement. This section establishes a civil penalty for unauthorized brokering of transportation.

Sec. 6209. Requirement for registration and USDOT number

This section amends subchapter III of chapter 311 by inserting a new section at the end, section 31134. This section authorizes a motor carrier, freight forwarder, or broker to operate commercial motor vehicles in interstate commerce if they have been registered by the Secretary and issued a USDOT number. This section requires the Secretary to register a motor carrier if the motor carrier is willing and able to comply with the requirements and has disclosed any relationship to another motor carrier. This section requires the Secretary to revoke or suspend a registration if authority to operate has been revoked or suspended under section 13905 or an employer has willfully failed to comply with requirements for registration. Nothing in this section affects the authority of a state to issue a USDOT number.

Subtitle C—Commercial Motor Vehicle Safety

Sec. 6301. Motor carrier safety assistance program

This section amends 49 U.S.C. § 31102 to make changes to the Motor Carrier Safety Assistance Program (MCSAP).

Subsection (a) directs the Secretary to administer MCSAP in order to assist states with the development and implementation of programs for improving motor carrier safety and the enforcement of federal regulations, standards, and orders on commercial motor vehicle safety and hazardous materials transportation safety. Currently states are required to submit a plan to the Secretary that acknowledges their agreement to assume responsibility for a variety of issues, including improving safety and adopting federal regulations, standards, and orders set by the Secretary. This section adds a requirement for states sharing a land border with Canada or Mexico to implement a border commercial motor vehicle safety program and enforcement activities. In addition, this section requires states to maintain their level of spending on these activities at a level that is at least equal to the average of the three years prior to enactment of this Act. This section directs the Secretary provide guidance and standards to aide in helping states reduce commercial motor vehicle crashes. This section directs states to establish performance targets for enforcement activities that will reduce fatalities and crashes and to update those targets annually. This section requires states to report to the Secretary the number and rate of fatalities and crashes involving commercial motor vehicles in the state.

This section directs the Secretary to annually review the plan and assess whether the state is meeting its targets. The Secretary is directed to either approve the plan or disapprove the plan. If the Secretary disapproves the plan, the Secretary is required to provide the state the reason for the disapproval. A state may resubmit a disapproved plan. If a state is not following its plan or the plan has become inadequate, the Secretary may withdraw approval of the plan and withhold grant funds.

A state is eligible for its MCSAP grant allocation if the state has an approved plan. If the state does not have an approved plan, it is eligible for its MCSAP grant allocation at a lower level depending on how long the state has not had an approved plan. Withheld funds will be reallocated among other states in the following fiscal year. States are required to use their grant funds to further the state's plan but may use 5 percent or less for enforcement activities on noncommercial motor vehicles.

Sec. 6302. Performance and registration information systems management program

This section amends 49 U.S.C. § 31109 to require the Secretary to carry out a performance and registration information systems management (PRISM) program that links federal motor carrier safety information systems with state registration and licensing systems. The program enables a state to determine the safety fitness of a motor carrier or registrant and deny, suspend, or revoke a registration and seize the registration plates if the motor carrier's operating authority has been revoked. This section requires state participation in the PRISM program and allows states to use com-

mercial vehicle information systems and networks deployment grant funds to meet the PRISM participation requirements.

Sec. 6303. Commercial vehicle information systems and networks deployment grants

This section amends commercial vehicle information systems and networks (CVISN) deployment grant program under section 4126 of SAFETEA–LU. This section allows CVISN grant funds to be used by states to participate in the performance and registration information systems management program. This section eliminates the legislative caps on the amount a state can receive under the CVISN program.

Sec. 6304. Commercial motor vehicle safety inspection programs

This section amends 49 U.S.C. § 31142(b) to establish an annual vehicle inspection program for motorcoaches.

Sec. 6305. Amendments to safety fitness determination

This section directs the Secretary to consider Safety Recommendation H–99–6 of the National Transportation Safety Board closed once the safety fitness determination methodology is revised.

Sec. 6306. New entrant carriers

This section amends section 31144(g)(1) to direct the Secretary to prioritize new entrant safety review of motorcoach companies and hazardous materials carriers by conducting such reviews on an accelerated schedule. This section provides that a motor carrier's registration is not permanent until it passes a new entrant safety review.

Sec. 6307. Improved oversight of motor carriers of passengers

This section amends 49 U.S.C. § 3144 to require FMCSA to conduct safety fitness determinations of, and assign a safety rating to, each motorcoach company registered with the agency, and ensures regular monitoring of the safety performance of motorcoach companies.

Sec. 6308. Driver medical qualifications

This section amends 49 U.S.C. § 31149(c)(1)(D) to develop requirements applicable to medical examiners to be listed in the national registry. Subsection (b) amends section 31149(c)(1) to require additional oversight of licensing authorities. This section requires an annual review to assess the implementation of commercial driver's license requirements of at least 10 states to assess the accuracy, validity, and timeliness. The Secretary is directed to establish a national registry of medical examiners.

Sec. 6309. Commercial motor vehicle safety standards

This section directs the Secretary to research the need for potential occupant protection standards for truck tractors and motorcoaches.

Sec. 6310. Crash avoidance technology

This section requires the Secretary to study and report to the Committee on Transportation and Infrastructure on the effective-

ness of crash avoidance technologies to lessen the impact of distracted driving in commercial motor vehicle crashes.

Sec. 6311. Expansion of collision mitigation study

This section requires the Secretary to expand an ongoing study and report to the Committee on Transportation and Infrastructure on collision mitigation systems in commercial motor vehicles. In order to thoroughly assess the potential of this safety technology, the Committee believes that the Secretary should work with multiple providers of commercial vehicle collision mitigation systems.

Subtitle D—Commercial Motor Vehicle Operators

Sec. 6401. National clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators

This section amends chapter 313 by inserting adding a new section 31306a on a national clearinghouse for verified positive alcohol and controlled substance test results and test refusals as well as violations of FMCSA alcohol and controlled substances regulations of commercial motor vehicle operators. This section directs the Secretary to establish and maintain an information system that will serve as the clearinghouse. Employers are prohibited from allowing an individual to operate a commercial motor vehicle until the employer has queried the clearinghouse to ensure an individual is eligible under the testing program to operate a commercial motor vehicle. This section limits the release of clearinghouse information and requires compliance with all applicable federal privacy laws and regulations. This section authorizes the Secretary to collect fees from such employers and other authorized users for informational requests. This section provides for civil and criminal penalties for violations of this provision.

Sec. 6402. Commercial motor vehicle operator training

This section requires the Secretary to issue final regulations establishing minimum training requirements for commercial motor vehicle operators. This section amends 49 U.S.C. § 31308(1) to add the requirement that an individual present a certification of completion of training to receive a commercial driver's license.

Sec. 6403. Commercial driver's license program

This section amends 49 U.S.C. § 31309 to require state commercial driver's license information systems to be able to receive and submit driver conviction and disqualification information.

This section amends 49 U.S.C. § 31311 to require a state commercial driver's license (CDL) program to check the drug and alcohol clearinghouse before renewing a CDL. This section requires each state to submit a comprehensive CDL program plan for approval by the Secretary.

This section amends 49 U.S.C. § 31313 to make a state eligible for CDL grants if the state has an approved plan. In addition, this section requires states to maintain their level of spending on these activities at a level that is at least equal to the average of the three years prior to enactment of this Act. This section sets the state funding formula for distributing CDL grants and guarantees a

state with an approved plan a minimum apportionment of one-half of one percent of the funds available.

Sec. 6404. Commercial driver's license passenger endorsement requirements

This section requires the Secretary to review and assess the current knowledge and skill testing requirements for a CDL passenger endorsement to determine whether improvements are necessary. The Secretary is required to send a report on the findings to the Committee on Transportation and Infrastructure.

Sec. 6405. Commercial driver's license hazardous materials endorsement exemption

This section would provide to Class A CDL holders a similar exemption from the hazardous materials endorsement requirement to the existing one given to restricted drivers license holders for hauling up to 1,000 gallons of diesel fuel.

Sec. 6406. Program to assist veterans to acquire commercial driver's licenses

This section directs the Secretary to establish accelerated licensing procedures to help veterans get a CDL.

Subtitle E—Motor Carrier Safety

Sec. 6501. Motor carrier transportation

This section provides that certain agricultural exemptions apply interstate.

Sec. 6502. Requirements for hours of service

This section directs the Secretary to complete by March 31, 2013, a field study of the effectiveness of the 34-hour restart rule published on December 27, 2011, that applies to truck drivers. If the results of the study support the 34-hour restart rule, the Secretary is directed to move forward with implementation. If the results of the study do not support the rule, the Secretary is directed to modify the rule through a new rulemaking.

Sec. 6503. Electronic logging devices

This section requires performance standards to be included if the Secretary issues regulations regarding electronic logging devices that track compliance with hours of service requirements for commercial motor vehicle drivers. If an electronic logging device is not certified to meet the standards, it is not acceptable as evidence of hours of service and record of duty status requirements. This section also includes additional considerations that include the reduction or elimination to retain supporting documentation associated with paper-based records of duty status if an electronic logging device supplants such documentation. The information contained on an electronic logging device may only be used for enforcement of motor carrier safety.

Sec. 6504. Motor carrier safety advisory committee

This section amends section 4144(d) of SAFETEA–LU to authorize the motor carrier safety advisory committee through September 30, 2017.

Sec. 6505. Transportation of agricultural commodities and farm supplies

This section amends section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 to revise exemptions from federal maximum driving and on-duty time motor carrier regulations for drivers transporting agricultural commodities and farm supplies during planting and harvest periods. This section extends the exemptions to drivers transporting agricultural farm supplies: (1) from a wholesale or retail distribution point of the farm supplies to a farm or other location where such supplies are intended to be used within a 150 air-mile radius from the distribution point, or (2) from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point. In addition, the exemption covers drivers transporting agricultural commodities from the source to a location within a 150 air-mile radius from the source.

Sec. 6506. Exemption relating to transportation of grapes during harvest periods

This section exempts from federal maximum driving and on-duty time motor carrier regulations any drivers transporting grapes in a state if the transportation is: (1) during a harvest period, and (2) limited to an area within a 175 air-mile radius from the location where the grapes are picked or distributed.

Subtitle F—Miscellaneous

Sec. 6601. Exemptions from requirements for certain farm vehicles

This section exempts certain farm vehicles (including the individual operating the vehicle) from certain federal requirements (for a CDL, drug testing, medical certificates, and hours of service) governing the operation of motor vehicles. This section also prohibits federal transportation funding to a state from being terminated, limited, or otherwise interfered with as a result of the state's exempting a covered farm vehicle (including the individual operating that vehicle, but excluding any farm vehicle transporting hazardous materials requiring a placard) from any state requirements governing the operation of that vehicle.

Sec. 6602. Technical correction

This section amends section 306(c)(2)(B) of the SAFETEA–LU Technical Corrections Act of 2008.

Sec. 6603. Study of impact of regulations on small trucking companies

This section requires the Comptroller General to conduct a study to assess trends in motor carrier safety relating to small trucking companies and independent operators and requires the study to analyze the extent to which safety regulations adversely impact

and economically and competitively disadvantage small trucking companies and independent operators.

Sec. 6604. Report on small trucking companies

This section requires the Secretary to submit to Congress a report on the efforts of the DOT to better balance truck competition and efficiency with safety.

Sec. 6605. Rulemaking on road visibility of agricultural equipment

This section requires the Secretary to issue a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road. The rule is required to establish minimum lighting and marking standards for new agricultural equipment manufactured after the effective date of the rule. This rule does not require the retrofitting of agricultural equipment.

Sec. 6606. Transportation of horses

This section amends 49 U.S.C. § 80502 to prohibit the transportation of horses in a multi-level trailer and authorizes a civil penalty of between $100 and $500 for each violation of this prohibition.

Sec. 6607. Regulatory review and revision

This section requires the Secretary to review and revise the federal motor carrier safety regulations to simplify the regulations and eliminate requirements that are outmoded or excessively burdensome.

Sec. 6608. Issuance of safety regulations

Directs the Secretary to expedite the issuance of safety regulations to carry out this title of the bill.

Sec. 6609. Repeals

This section repeals the following programs and provisions:

- Section 31104, High-Priority Program, is repealed.
- Section 31107, Border Enforcement Grants, is repealed.
- Subsections (c), (d), and (e) of section 4123 of SAFETEA–LU, Commercial Driver's License Information System Modernization, are repealed.
- Section 4127 of SAFETEA–LU, Outreach and Education, is repealed.
- Section 4128 of SAFETEA–LU, Safety Data Improvement Program, is repealed.
- Section 4134 of SAFETEA–LU, Grant Program for Commercial Motor Vehicle Operators, is repealed.
- Section 4023 of TEA–21, the report on Motor Carrier Employee Protections, is repealed.

TITLE VII—RESEARCH AND EDUCATION

Sec. 7001. Authorization of appropriations

This section authorizes appropriations out of the Alternative Transportation Account of the Highway Trust Fund for 23 U.S.C. § 503, § 503a, § 504, § 512, § 514, § 515, § 516 and § 517, and 49 U.S.C. § 5506 and § 111 for fiscal years 2013 through 2016.

Sec. 7002. Obligation ceiling

All obligations made available from the Alternative Transportation Account for this title shall not exceed $440,000,000 for each of fiscal years 2013 through 2016.

Sec. 7003. Definitions

This section amends 23 U.S.C. § 501 by adding definitions for the terms 'connected vehicle technology', 'incident', 'intelligent transportation infrastructure', 'intelligent transportation system', and 'national architecture'.

Sec. 7004. Surface transportation research, development and technology

This section amends 23 U.S.C. § 502 by changing the section heading to "Surface Transportation Research, Development, and Technology". Additional subparagraphs are added or amended to align federal responsibilities and the Secretary's role in carrying out surface transportation research and education with the programs established in other section under Title V. New subparagraphs (C) and (D) are added to 23 U.S.C. § 502(b)(6) to allow states to transfer their allocation under this chapter to other states in order to facilitate mutual research, development, and technology transfer activities.

A new section 502(b)(7) is added that allows the Secretary to initiate prize competitions to stimulate innovation in the area of surface transportation research that is consistent with the Secretary's research and deployment objectives and activities in section 503.

Subsection (c) is amended by changing the federal cost share to 80 percent for collaborative research and development carried out by the Secretary.

The following programs are repealed from 23 U.S.C. § 502:

- 23 U.S.C. § 502(d), Contents of Research Program
- 23 U.S.C. § 502(e), Exploratory Advanced Research
- 23 U.S.C. § 502(f), Long-Term Pavement Performance Program
- 23 U.S.C. § 502(g), Seismic Research
- 23 U.S.C. § 502(h), Infrastructure Investment Needs Report
- 23 U.S.C. § 502(i), Turner-Fairbank Highway Research Center
- 23 U.S.C. § 502(j), Long-Term Bridge Performance Program

Sec. 7005. Research and development

This section amends 23 U.S.C. § 503 by requiring the Secretary to carry out a research and development program that is consistent with the strategic plan established under 23 U.S.C. § 508. The areas of surface transportation research and development identified are as follows: improving highway safety, improving highway infrastructure integrity, reducing congestion, improving highway operations, enhancing freight productivity, assessing policy and system financing alternatives, and exploratory advanced research. Each research and deployment area has specified objectives and activities relevant to each area.

Subsection (f)(3) requires the Secretary to carry out an Infrastructure Investment Needs Report. Subsection (g) authorizes the Secretary to make grants and enter into cooperative agreements with entities to pay the federal share of research, development and technology transfer under subsection (b). Subsection (h) requires the Secretary to operate the Turner-Fairbank Highway Research Center to support the Secretary's research agenda. Subsection (i) allows the Secretary to establish Centers for Surface Transportation Excellence.

Sec. 7006. Technology and innovation deployment program

This section adds a new 23 U.S.C. § 503a which requires the Secretary to establish a technology and innovation deployment program by promoting and facilitating technologies, products, methods or tools resulting from highway research conducted under this chapter.

Subsection (b) outlines the objectives the Secretary shall seek to advance in carrying out the program. Subsection (c) describes the types of activities the Secretary may carry out under the program. Subsection (d) authorizes the Secretary to make grants and enter into cooperative agreements with entities to pay the federal share of research, development and technology transfer under this section. Subsection (e) requires the Secretary to incorporate research results and products developed under 23 U.S.C. § 510, the Future Strategic Highway Research Program.

As part of the objectives described in subsection (b), the Secretary shall carry out deployment of innovative pavements, consistent with the research requirements described in section 503(d)(1)(F), with the potential for extended pavement life span and enhanced performance, and reduced initial costs and life cycle costs.

Sec. 7007. Training and education

This section amends 23 U.S.C. § 504 by clarifying the duties and courses developed by the National Highway Institute. The federal cost share for activities carried out by the local technical assistance centers established in section 504(b) is 50 percent and the federal cost share for tribal technical assistance centers will remain at 100 percent.

Section 504(c) is amended to clarify the eligible expenses for the Dwight David Eisenhower Transportation Fellowship Program.

Section 504(d), the Garrett A. Morgan Technology and Transportation Education Program is repealed.

Section 504(e) is amended by removing 23 U.S.C. § 144 from eligible expenses and adding eligible activities under 23 U.S.C. § 504(e).

The subsection heading for section 504(f) is amended.

Sec. 7008. State planning and research

This section clarifies which programs are required to make planning and research activities available for expenditure.

Sec. 7009. International highway transportation outreach program

This section repeals 23 U.S.C. § 506, the International Highway Transportation Outreach Program.

Sec. 7010. Surface transportation-environmental cooperative research program

This section repeals 23 U.S.C. § 507, the Surface Transportation-Environmental Cooperative Research Program.

Sec. 7011. Transportation research and development strategic planning

This section requires the Secretary, acting through the Administrator of the Research and Innovative Technology Administration, to develop a 5-year transportation research and development strategic plan no later than 1 year after the date of enactment of this Act. One of the primary purposes of the plan shall be improving goods movement.

Sec. 7012. National cooperative freight transportation research program

This section repeals 23 U.S.C. § 509, the National Cooperative Freight Transportation Research Program.

Sec. 7013. Future strategic highway research program

This section repeals 23 U.S.C. § 510, the Future Strategic Highway Research Program.

Sec. 7014. National intelligent transportation systems program plan

This section amends the 23 U.S.C. § 512 heading. Section 512 is amended by requiring the Secretary to develop a 5-year National Intelligent Transportation Systems program plan not later than 1 year after the date of enactment of this Act.

Sec. 7015. Use of funds for intelligent transportation systems activities

This section amends the 23 U.S.C. § 513 heading. The funds made available under section 7004(a)(4) of this Act shall be subject to the requirements of section 513.

Sec. 7016. Intelligent transportation systems program goals and purposes

This section creates a new 23 U.S.C. § 514, Intelligent Transportation Systems Program Goals and Purposes, by moving the language found in section 5303 of SAFETEA–LU into the United States Code.

Section 5303 of SAFETEA–LU is repealed.

Sec. 7017. Intelligent transportation systems program general authorities and requirements

This section creates a new 23 U.S.C. § 515, Intelligent Transportation Systems Program General Authorities and Requirements, by moving the language found in section 5305 of SAFETEA–LU into the United States Code.

Section 5305 of SAFETEA–LU is repealed.

Sec. 7018. Intelligent transportation systems research and development

This section creates a new 23 U.S.C. § 516, Intelligent Transportation Systems Research and Development, by moving the lan-

guage found in section 5306 of SAFETEA–LU into the United States Code.

Section 5306 of SAFETEA–LU is repealed.

Sec. 7019. Intelligent transportation systems national architecture and standards

This section creates a new 23 U.S.C. § 517, Intelligent Transportation Systems National Architecture and Standards, by moving the language found in section 5307 of SAFETEA–LU, except section 5307(a)(4), into the United States Code.

Section 5307 of SAFETEA–LU is repealed.

Sec. 7020. National university transportation centers

This section repeals section 5505 of subtitle III of title 49, National University Transportation Centers.

Sec. 7021. University Transportation Research

This section amends 49 U.S.C. § 5506, University Transportation Research. The University Transportation Center program is changed by keeping the competitive structure of the Regional and Tier I centers. Tier I centers are changed to Standard centers and the Tier II centers are repealed. The Secretary is required to complete the competitive process for both Regional and Standards centers no later than 180 days after the date of enactment of this Act. Of the 10 Regional centers, the Secretary is required to establish one of the centers in the field of comprehensive transportation safety and one of the centers in the field of technology for integrated transportation systems operation and performance. The Secretary is required to post any funding opportunities on the DOT website. The Secretary is required to work with the National Academy of Sciences on the selection of University Transportation Centers. All selection process evaluation procedures shall be made transparent by the Secretary.

Sec. 7022. Bureau of transportation statistics

This section amends 49 U.S.C. § 111 by changing what statistics the Bureau is required to collect. Subsection (d), the information needs assessment, of section 111 is replaced with a new subsection (d), access to federal data, which gives the Bureau greater authority to collect relevant transportation data from the agencies in DOT and other federal agencies, subject to statutory and regulatory restrictions. The reference to the Mass Transit Account in subsection (n) is amended to the Alternative Transportation Account. Subsection (o)(2)(B) is struck.

Sec. 7023. Administrative authority

This section amends 49 U.S.C. § 112 by adding a new subsection (f) which allows a percentage of funding for administrative expenses to be used by the Administrator of the Research and Innovative Technology Administration for evaluation and oversight of the programs administered by the Administration.

A new subsection (g) is added which gives the Administrator of the Research and Innovative Technology Administration the authority to collaborate with non-federal entities on research and development activities. Subsection (g) authorizes the Administrator to

enter into grants, contracts and cooperative research and development agreements with non-federal entities on a cost shared basis. The use of technology under any grant, contract or cooperative agreement is subject to the Stevenson-Wydler Technology Innovation Act of 1980.

Sec. 7024. Technical and conforming amendments

Subsection (a) repeals sections 5308, 5309, 5310, 5501, 5506, 5507, 5511, and 5513 of SAFETEA–LU.

Subsection (b) makes conforming changes to the table of contents in SAFETEA–LU.

Subsection (c) amends section 6010(c) of SAFETEA–LU by striking the reference to subtitle C of title V and inserting 23 U.S.C. § 501.

TITLE VIII—RAILROADS

Subtitle A—Intercity Passenger Rail Capital Programs

Sec. 8001. Capital grants for class II and class III railroads

This section repeals capital grants for class II and class III railroads grant program, authorized in the Energy Independence and Security Act of 2007 (P.L. 110–140) for $50,000,000 annually, though grant funding was never appropriated.

Sec. 8002. Congestion grants

This section repeals the congestion grants program, authorized in the Passenger Rail Investment and Improvement Act of 2008 (P.L. 110–432) for $100,000,000 in fiscal years 2012 and 2013.

Sec. 8003. Intercity passenger rail capital grants to states

This section makes several edits and amendments to 49 U.S.C. § 24402, including:

- eliminating § 24402(b) as duplicative;
- amending § 22402(c)(1)(D) to require competition for operating contracts for passenger rail service on projects funded under this program authorization;
- eliminating § 22402(c)(2)(B)(vi)–(v) as burdensome;
- deleting § 22402(g)(3)–(4); and
- amending § 22402(h) to require any unobligated amount be used to pay down the federal deficit.

Subtitle B—Amtrak

Sec. 8101. Authorization for Amtrak operating expenses

This section reduces Amtrak operating subsidies for FYs 2012–2013 by twenty-five percent. This reduction aligns Amtrak's authorization for operating expenses with the appropriated level of funding for operating expenses since FY 2010.

Sec. 8102. Limitations on Amtrak authority

This section amends 49 U.S.C. § 24305 to add subsection (g) that prohibits Amtrak from using federal funds to hire outside counsel to sue another passenger rail service provider or to pursue a lawsuit against a passenger rail service provider arising from a competitive bid process. This section does not prohibit Amtrak from

using its own funds for these purposes, including hiring outside counsel to sue another passenger rail service provider.

Amtrak competes with other private passenger rail operators for commuter rail operating contracts. In the competitive bidding process, sometimes Amtrak wins the operating rights, and sometimes their private sector competitors win. Open competition for rail operations saves regional transportation authorities' taxpayer dollars, while improving the services provided. When the San Joaquin Regional Rail Commission bid out its start-up Altamont Commuter Express, Herzog won the contract with a bid of $5.37 million and that was 48% lower than Amtrak's $10.32 million bid. Similarly, Keolis began operating Virginia Railway Express in 2010 after winning a 5-year operating contract with a bid that was $1 million less than Amtrak's.

Furthermore, when South Florida Regional Transportation Authority bid out operations of its Tri-Rail South Florida service, Veolia Transportation beat Amtrak's bid to operate by over $60 million. Amtrak did not file a bid protest challenging the bid process, but instead filed an employment-related suit in Federal District Court. Veolia, however, has been forced to defend a lawsuit for over four years and has spent $2 million on legal fees. Veolia estimates these costs will double once the case is through the appeals process and completed. While a private company must absorb legal costs related to litigation, Amtrak currently may fund its litigation expenses with its federal funding. By restricting Amtrak's use of federal funds for these purposes, this provision effectuates the intent of Amtrak's organic statute, 49 U.S.C. § 24301(a)(2), that Amtrak "shall be operated and managed as a for-profit corporation." The intent of this provision is to ensure that Amtrak not use federal funds to chill competition for the provision of passenger rail service.

Sec. 8103. Applicability of laws

Section 8013(a) applies certain provisions of Title 18 to Amtrak and the Amtrak Office of the Inspector General (Amtrak IG) to ensure that the federal funding Amtrak receives is protected from fraud, waste, and abuse.

Section 8013(b) clarifies that claims and statements made to Amtrak are considered as claims and statements under the False Claims Act to ensure Amtrak IG has the necessary tools to protect the government and taxpayer dollars from fraud.

Section 8013(c) applies these sections to Amtrak only in those years in which Amtrak receives a federal subsidy.

Sec. 8104. Inspector General of Amtrak

A new provision, 49 U.S.C. § 24317, is added to ensure federal funds are protected and spent wisely. New subsection 24317(a) grants Amtrak IG the authority to investigate fraud, waste, and abuse. New subsection 24317(b) ensures that Amtrak IG, which is fully funded by federal appropriations, may take advantage of the General Services Administration's programs designed to conserve federal resources, reduce expenses, and increase efficient operations. New subsection 24317(c) extends qualified immunity to Amtrak IG personnel to ensure performance of their statutory duties is not hindered by the threat of litigation and liability.

Sec. 8105. Amtrak management and accountability

This section revises 49 U.S.C. § 24310 to properly reflect the roles of the DOT IG and the Amtrak IG with respect to reporting on the implementation of PRIIA by DOT and Amtrak, respectively.

Sec. 8106. Amtrak food and beverage service

This section revises 49 U.S.C. § 24305 to add a new subsection that requires the FRA to competitively bid out food and beverage service on Amtrak trains. Amtrak's IG reported than in fiscal year 2010, Amtrak lost $61 million in direct costs on its food and beverage service, and the U.S. Government Accountability Office (GAO) has previously noted that Amtrak spends about $2 to earn $1 in food and beverage revenue.

Sec. 8107. Application of Buy America to Amtrak

This section adds new paragraphs 49 U.S.C. § 24305(f)(5)–(6) that apply Buy America provisions to Amtrak for all contracts carried out with federal funds and requires public notice of and justification for any waivers requested for Buy America.

Subtitle C—Project Development and Review

Sec. 8301. Project development and review

This section adds new chapter 229 to title 49 that will streamline the environmental review process for rail projects.

"49 U.S.C. § 22901. Applicability

This section applies the chapter to all freight and passenger rail capital projects that are planned to be carried out with FRA funds either through a loan, grant, contract, or other financing. This section also requires the chapter be broadly construed to ensure all ambiguity is resolved in favor of applying the chapter.

"49 U.S.C. § 22902. Definitions

This section defines terms for the chapter.

"49 U.S.C. § 22903. Efficient environmental reviews for rail project decision making

This section closely follows 23 U.S.C. § 139 and is generally intended to speed up the environmental review process for rail projects.

Subsection (a) applies to all EIS for projects and any other environmental review if determined appropriate by Secretary. The subsection also allows the authorities granted under the section to be used on a project, class of projects, or program of projects and allows procedures to be modified for programmatic compliance. It also excludes certain actions from review if they fall below a funding threshold to tie the environmental review process to the level of federal interest in the project.

Subsection (b) establishes the role of the DOT as lead agency and sets out the roles of other federal and non-federal agencies and entities, including project sponsors, in the environmental review process to help streamline coordination of the process. Paragraph (b)(5) requires federal agencies to use the environmental documents cre-

ated under this review process to eliminate duplicative environmental reviews.

Subsection (c) requires that the lead agency invite all federal and non-federal agencies with an interest in the project to become participating agencies. A federal agency invited to be a participating agency must accept, unless it declines in writing stating it has no jurisdiction or authority. Also allows participating agencies to be deemed cooperating agencies and requires that participating and cooperating agencies carry out their reviews concurrently.

Subsection (d) requires the project sponsor to notify the lead agency of the type of work, length, and location of the project, and any expected approvals needed, which is intended to help lead agencies in inviting other agencies to participate.

Subsection (e) requires the lead agency to involve the public as early as possible in defining purpose and need and requires the purpose and need to clearly state the project objectives. Similarly, paragraph (e)(4) requires early determination with public involvement of the range of alternatives. The range of alternatives is restricted under (e)(4)(B)(ii) to not allow reevaluation of any alternative evaluated but not adopted in a federal or state environmental document for the rail or transportation plan or in a programmatic or tiered environmental document. Clause (e)(4)(B)(iii) deems that alternatives evaluation legally sufficient.

Subparagraph (e)(4)(C) requires the lead agency to decide on the methodologies for evaluating the alternatives with input from participating agencies as part of the scoping process. These changes will eliminate delay later in the review process through early identification of these matters with public input.

Subparagraph (e)(4)(D) allows a preferred alternative to be developed to higher level of detail, which speeds the decision-making process by focusing resources on which alternative is preferred.

Subparagraph (e)(4)(E) limits re-evaluation of cumulative impacts and growth-inducing impacts if previously studied in prior planning or environmental document. These evaluations are deemed legally sufficient.

Paragraph (e)(5) allows the lead agency to deem that participating agencies concur with the decisions of the lead agency under the subsection, unless the participating agency submits written objections within a specified timeframe.

Paragraph (f)(1) allows for early coordination and scheduling between agencies to ensure the process has a time certain for completion. Paragraph (f)(2) also establishes comment deadlines on the draft EIS and other documents to create certainty for the completion of the environmental review process. Paragraph (f)(3) requires participating agencies to make decisions under other laws they administer within a specified timeframe to ensure one agency does not hold up the review process. Failure to make a decision in that timeframe deems the project approved by that agency, but does not subject the agency to judicial review.

Subsection (g) ensures the environmental process moves smoothly by establishing an issue identification and resolution process early on in the review for matters identified by participating agencies that might delay or prevent approval of the project. Resolutions under the process are not to be re-evaluated and are deemed compliant with applicable laws.

Subsection (h) streamlines the decision-making process by requiring a condensed final EIS and record of decision to eliminate lapse in time between the issuance of the two documents, where the preferred alternative has not changed from the draft EIS and the Secretary determines the parties involved will implement the measures applicable to the approval.

Subsection (i) restricts when supplemental environmental reviews and reevaluations may occur to when changes in the project will result in significant impacts or there is a change in circumstances or new information and more than 5 years has lapsed since approval, which will ensure that once a project is studied it need not be subjected to further environmental review.

Subsection (j) requires the Secretary to establish a program to measure and report on progress of improving and expediting the planning and environmental review process.

Subsection (k) allows states to request that parts of its funds may be used to aid federal, state, or tribal agencies in expediting and improving planning and delivery for rail projects.

Subsection (l) requires the Secretary to issue regulations to implement the section and establish methodologies and procedures to evaluate environmental impacts. If the environmental review follows these procedures it is deemed compliant with applicable law.

Subsection (m) establishes a 90-day statute of limitations on claims arising from the environmental review process. Paragraph (m)(2) clarifies that a supplemental EIS is considered a separate action and establishes a similar 90-day review period. Doing so creates greater certainty for projects to move forward without the specter of judicial review and delay.

Subsection (n) establishes venue for relief where the project is located and limits those that may seek relief to individuals with a specific property interest and that have identified their claims in the draft EIS comment period.

"49 U.S.C. § 22904. Integration of planning and environmental review

This section is intended to reduce duplicative study and analysis, by allowing the use of decisions from planning documents to be brought up into the environmental review process at the scoping stage.

Subsection (a) allows the lead agency to adopt planning products into the environmental review at the scoping stage.

Subsection (b) identifies the types of planning decisions allowed to be adopted, including purpose and needs or goals and objectives statement; decisions regarding project location; decisions regarding alternatives for study or elimination; description of the environmental settings; decision on methodologies for analysis; and decisions on programmatic mitigation. It also allows for certain analyses to be used from planning documents, such as freight and passenger rail needs, development and growth, population and employment, environmental conditions, land use, potential environmental effects, and mitigation needs.

Subsection (c) identifies the conditions for use of a planning document, including that the plan was developed per federal law, the planning process contained broad consideration of needs and effects, the planning process gave notice to the public and agencies,

documents related to the planning were made available to the public and agencies pre-scoping, no new information or circumstance has arisen to effect the product, based on reliable data and good methodologies, it is sufficiently documented, and the product is appropriate for use in an environmental review.

Subsection (d) clarifies that if the document is adopted it will not be subject to reconsideration or additional consultation unless the lead agency determines there is new information or circumstances warranting. It also allows other agencies to rely on the planning product in their reviews.

Subsection (e) clarifies that the section is not to be construed to make environmental laws are applicable to the development of planning products.

"49 U.S.C. § 22905. Eliminating duplicative environmental reviews

This section establishes a program to allow state environmental laws to be used for projects in lieu of federal environmental laws.

Subsection (b) allows state to participate through application. The application must give an explanation of the alternative environmental review of the state, how those laws are substantially equivalent to federal law, and evidence of having sought public comments on the application.

Subsection (c) requires the Secretary to review and decide on the application within 90 days and give the state written reasons for the decision.

Subsections (d) require the Secretary to approve the application if the laws are found to be substantially equivalent to federal laws.

Once approved, subsection (e) states that compliance with state permits are deemed to be compliant with federal laws, thereby reducing the separate state and federal environmental review processes.

Subsection (g) requires an annual report to Congress describing the administration of the program.

"49 U.S.C. § 22906. Railroad corridor preservation

This section allows entities to acquire rights of way and adjacent property prior to completion of environmental review. This section does not allow development of the property until final approval of the project and the environmental reviews are complete.

"49 U.S.C. § 22907. Treatment of railroads for historic preservation

This section precludes entire railroads or portions thereof from being designated as historic sites, but allows an exception for depots and bridges, or other significant structures as determined by the Secretary. Because most rail lines are over 50 years old, they can become eligible for historic review, even if they do not have any specific historical feature other than age. The intent of this section is to treat railroads similar to the way the interstate highway system is treated under 23 U.S.C. § 103 for historic preservation purposes, and allow the Secretary to develop a list of individual railroad elements that deserve historic preservation treatment.

The Committee on Transportation and Infrastructure held a hearing on this issue in June 2008. Though a report was required

in section 407 of the Passenger Rail Investment and Improvement Act of 2008, the report is over two years past due. This section is intended to resolve continued concerns expressed by states such as Alaska and North Carolina where historic preservation reviews have held up projects that would improve bridge safety or enhance mobility. For example, the Alaska Railroad Corporation (ARRC) proposed extending a siding 2000 feet and because the State Historic Preservation Office (SHPO) required additional historic evaluation, costs increased more than $25,000 and the project was delayed 4 months. Likewise, even unsafe, mundane bridges can be subjected to historic review simply because of age. In the case of ARRC's bridge 432.1, the state wanted to replace its failing foundation for safety reasons. Though the bridge was not unique, the historic preservation review delayed the project over a year and increased the costs. Similarly, in North Carolina, a historic review of the Southeast High-Speed Rail Corridor to determine eligibility of the corridor for the National Register of Historic Places increased the project costs by approximately $150,000 and added 6 months to the project schedule. This section is intended to address these concerns while protecting historic elements of railroads.

"49 U.S.C. § 22908. Categorical exclusions

Subsection (a) requires that certain types of projects be categorically excluded from extensive NEPA review, including maintenance and replacement of tracks, bridges, structures, stations, communications, etc.; rail line additions in a right-of-way; projects related to positive train control; and replacement, reconstruction, and rehabilitation of existing bridges, as long as it does not require acquisition of significant new right-of-way.

Subsection (b) allows the Secretary to categorically exclude a project if the project would fit within a categorical exclusion but for an additional action, if the additional action is properly studied.

Subsection (c) authorizes the FRA to use of other administrations' categorical exclusions to the extent they may be applicable to the project before FRA.

"49 U.S.C. § 22909. State assumption of responsibility for categorical exclusion

This section is similar to 23 U.S.C. § 326 and allows the Secretary to delegate to the states, at the Secretary's discretion, the authority to determine if certain activities are within classes of action that are categorically excluded from environmental reviews.

Subsection (b) allows the Secretary to also assign to the state, the Secretary's role under other laws that it would otherwise have to undertake for categorical exclusions. If the state assumes such role, it is solely responsible and liable for the carrying out that law.

Paragraphs (c)(1) and (c)(2) require the state and Secretary, after notice and comment, to enter into a 3-year, renewable, memorandum of understanding to carry out the section.

Paragraph (c)(3) requires that the state accept federal court jurisdiction for enforcement of its responsibilities.

Paragraph (c)(4) requires the Secretary to monitor the state's compliance, including financial ability of the state to carry out the program.

Subsection (d) allows the Secretary to terminate the memorandum of understanding if the state is not carrying out its responsibilities.

Subsection (e) clarifies that the state agency is deemed a federal agency for the purposes of the federal laws being carried out.

"49 U.S.C. § 22910. Rail project delivery program

This section is similar to 23 U.S.C. § 327. In subsection (a) it allows the Secretary to develop a program to delegate to the states, upon the Secretary's approval, the authority to conduct the environmental review required for a project, class of projects, or program of projects or any authority under other federal environmental laws to the same extent required of the Secretary.

Subsection (b) requires regulations to establish the program and application requirements, including that applications contain the project or class of projects for which the state plans to exercise the authority, verification the state has the financial resources, and evidence on the state obtaining notice and comment on its applications.

Paragraph (b)(3) requires each state to give notice and public comment of its intent to apply for the program.

Paragraph (b)(4) requires approval of an application if the regulatory requirements are met, the state has the capability to assume the responsibility, and the head of the state agency enters an agreement with the Secretary.

Paragraph (b)(5) allows the Secretary to solicit comments of certain other federal agencies if applicable.

Subsection (c) outlines the requirements of the written agreement between the state and Secretary including, it be for a 5-year, renewable term, the state agrees to federal court jurisdiction, the state agrees to assume all or part of the responsibilities, the state has sufficient public notice laws, and will maintain sufficient financial responsibility.

Subsection (d) establishes legal jurisdiction for review in federal courts and applies the same legal standards and requirements to the state as would be applied to the Secretary.

Subsection (e) clarifies that the state is solely liable and responsible for carrying out responsibilities assumed.

Subsection (f) ensures the Secretary may not assign a state rulemaking authority.

Subsections (g)–(h) require the Secretary to audit and monitor compliance by the state.

Subsection (i) requires annual report to Congress on the program.

Subsection (j) allows the Secretary to terminate a state's participation after notice to the state and an opportunity to take corrective action.

"49 U.S.C. § 22911. Exemption in emergencies

This section exempts from environmental reviews the reconstruction of a railroad, track, bridge, or other facility damaged in an emergency if that reconstruction project meets certain requirements.

Subtitle D—Railroad Rehabilitation and Improvement Financing

Sec. 8301. Railroad Rehabilitation and Improvement Financing

Subsection (a) of this section sets forth the purpose of the section which is to encourage more participation in the Railroad Rehabilitation and Improvement Financing (RRIF) program. It also requires the Secretary to issue regulations to carry-out the amendments made by the section.

Subsection (b) amends § 502(b)(1)(C) of the Railroad Revitalization and Regulatory Reform Act of 1976 to make high-speed rail facilities eligible for RRIF loans.

Subsection (c) amends § 502(f)(1) to allow private insurance, including bond insurance, to cover loan costs.

Subsection (d) amends § 502(f)(3) to allow the credit risk premium to be financed over the term of the loan.

Subsection (e) ensures the full value of the asset offered as collateral is credited and allows the Secretary to subordinate his/her rights under other provisions of to the rights of the Secretary under this section and section 503.

Subsection (f) is amended to ensure that the time limit for approval of the loan includes any review required by the Office of Management and Budget.

Subsection (g) adds a new paragraph to § 502(i) requiring the Secretary to establish procedures to establish a 45-day time limit on determining whether a new RRIF loan application is complete, and that the procedures include what constitutes a complete application, provide for an independent financial analyst, a description of what is incomplete or unsatisfactory, and permit reapplication without prejudice.

Subsection (i) provides that RRIF loans for positive train control systems (PTC) are automatically in the public interest and requires the Secretary to accept the entire cost of the PTC system as collateral.

Subsection (j) adds a new § 502(k) requiring an annual report to Congress summarizing RRIF loan activity over the past year, the report shall include the number of pre-application meetings, number of applications received and determined complete, dates of receipt, dates applications deemed complete, number of applications deemed incomplete, final decisions on approval/disapproval, number of applications withdrawn, and annual loan portfolio asset quality.

Subtitle E—Positive Train Control

Sec. 8401. Positive train control

This section amends the mandate enacted in the Rail Safety Improvement Act of 2008 (P.L. 110–432) requiring passenger and class I freight railroads to implement PTC collision avoidance systems on track over which intercity and commuter passengers travel, or over which poison or toxic-by-inhalation hazardous materials are transported. Subsection (a) amends 49 U.S.C. § 20156 to clarify that, except as required by section 20157, nothing in this section shall be construed as requiring the installation of PTC on railroad tracks if PTC is not required on those tracks by section 20157 and

PTC on those tracks is not chosen by the railroad as a technology to be implemented under this section.

Paragraph (b)(1) changes the PTC implementation date in 49 U.S.C. § 20157 to December 31, 2020, clarifies that 2020 shall be the baseline year, and eliminates the Secretary's authority to require PTC on track not identified in statute. The FRA has noted a cost-benefit ratio of 22:1 in its final rule implementing PTC, with 20 year costs estimated at $13.21 billion. There are significant technological issues associated with PTC that require additional time for consideration. PTC is a communications intensive technology that requires continuous availability of radio frequency spectrum throughout the operating environment to support the data being transferred. Supporting this immense transfer of data communications requires a large amount of radio spectrum. Spectrum is also necessary to achieve interoperable communications between commuter and freight railroads which often operate on the same tracks. Many commuter rail agencies have encountered significant difficultly acquiring the spectrum over which these radios must operate.

Additionally, PTC technologies are largely untested in the commuter rail environment. In comparison to freight and intercity rail operations, the commuter rail environment poses unique challenges given the high traffic volumes, close headways, and reliability demands that have a low tolerance for service delays. To ensure successful and cost effective operations, PTC systems must be carefully integrated to allow for these high volumes of service and must be calibrated to meet the needs of the precise operating environment of a commuter railroad. Until proper testing in the commuter rail environment is conducted, there can be no definitive resolution as to whether or not PTC will increase travel time or result in service disruptions. Extensive development, testing, and validation are necessary to ensure operations success.

A December 2010 report by the GAO entitled "Rail Safety: Federal Railroad Administration Should Report on Risks to the Successful Implementation of Mandating Safety Technology" found that while all railroads impacted by PTC requirements have been putting forth good faith efforts to meet the mandate, there is a strong potential for delays if certain problematic components of the process are not rectified in a timely manner. The GAO further noted that "demonstrating a high level of maturity before allowing new technologies into product development programs increases the chance for successful implementation and that, conversely, technologies that were included in a product development program before they were mature later contributed to cost increases and schedule delays."

Paragraph (b)(2) allows railroad carriers, in lieu of installing positive train control, to utilize an alternative risk reduction strategy on lines carrying poison- or toxic-by-inhalation hazardous materials, but not on lines carrying passenger trains. Providing the opportunity to pursue alternative risk reduction strategies offers a technology neutral approach that allows for flexibility to reduce the risk of poison- or toxic-by-inhalation hazardous materials to the same extent these risks would be reduced using PTC. This approach is consistent Obama's Executive Order 15563 (January 18, 2011), Improving Regulation and Regulatory Review.

Paragraph (b)(3) allows a railroad carrier to revise an implementation plan as necessary to reflect rail lines that are added or removed, or to reflect the use of alternative risk reduction strategies.

Paragraph (b)(4) pushes back the date for the Secretary's report to Congress on the progress of PTC implementation, requires the report include recommendations for improving PTC implementation or alternative risk reduction strategies.

Subtitle F—Regulatory Reform

Sec. 8501. Federal Railroad Administration regulations

Subsection (a) amends section 103 of title 49, U.S.C. by adding a new paragraph, 49 U.S.C. § 103(l), which provides that before any final regulation is issued, the Administrator shall consider the governing legal authority; the nature and significance of the problem; whether existing rules have created or contributed to the problem and changes to those rules; the best reasonably obtainable scientific, technical, and other information; the potential costs and benefits; means to increase the cost-effectiveness; incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility; and any reasonable alternatives. The paragraph also requires the Administrator to solicit and take into consideration public comment on these subjects and to follow applicable rulemaking procedures. Subsection (b) ensures this change is only effective with respect to regulations where no notice of proposed rulemaking has been issued. This section supports the objectives of President Obama's Executive Order 15563 (January 18, 2011): Improving Regulation and Regulatory Review.

Subtitle G—Technical Corrections

Sec. 8601. Miscellaneous corrections, revisions, and repeals

Subsection (a) makes technical corrections to provisions of the United States Code enacted in, or amended by, the Rail Safety Improvement Act of 2008, including minor corrections for technical reasons to clarify the meaning of the provisions, such as substitution defined statutory terms for undefined terms; to replace colloquial language with more formal language; to correct an error of spelling; capitalization, punctuation, or diction; or to eliminate an ambiguity or internal inconsistency.

Subsection (b) makes technical corrections to the Rail Safety Improvement Act of 2008, including minor corrections for technical reasons to clarify the meaning of the provisions, such as substitution defined statutory terms for undefined terms; to replace colloquial language with more formal language; to correct an error of spelling; capitalization, punctuation, or diction; or to eliminate an ambiguity or internal inconsistency.

Subsection (c) makes technical corrections to provisions of the United States Code enacted in, or amended by, the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).

Subsection (c) makes technical improvements to the section 214 Alternate Passenger Rail Service Pilot to allow for a 5-year, renewable operations period and to allow the Secretary to provide directly to a winning bidder any portion of appropriations for Amtrak

necessary to cover the operating subsidy described in subsection (a)(5)(B).

Subsection (c) also amends certain grant selection criteria to require competition and removes certain competitive grant selection criteria placing unnecessary requirements on rail carriers and granting the Secretary overly broad discretion.

Subsection (d) amends section 209(c) of PRIIA requiring implementation of the new cost-allocation methodology for state-supported Amtrak routes, to align the cost-allocation methodology implementation with state budget processes.

Subtitle H—Miscellaneous

Sec. 8701. Application of Buy America to intercity passenger rail service corridors

This section adds new paragraphs 49 U.S.C. § 24405(a)(11)–(15) that apply Buy America provisions to all contracts carried out with federal funds and requires public notice of any waivers requested for Buy America.

Sec. 8702. Prohibition on use of funds for California high-speed rail

This section prohibits any funds in the Act from being used for high-speed rail projects in California.

Sec. 8703. Disadvantaged business enterprises

Subsection (a) requires that at least 10 percent of capital grant program funds under FRA's jurisdiction be expended through small businesses owned by socially and economically disadvantaged individuals.

Subsection (b) defines terms for the section.

Subsection (c) allows disadvantaged businesses to still be eligible to receive funds if the disadvantaged business enterprises (DBE) program is deemed unconstitutional and is consistent with the savings clause currently in the federal highways and federal transit DBE programs.

Subsection (d) requires the program be implemented in accord with the federal highways and federal transit DBE programs.

TITLE IX—HAZARDOUS MATERIALS TRANSPORTATION

Sec. 9001. Short title and table of contents

This section provides the short title and table of contents for title IX of the bill.

Sec. 9002. Amendment of title 49, United States Code

This section provides that all repeals or amendments to sections or provisions in title IX of the bill shall be to title 49, United States Code.

Sec. 9003. Findings

This section makes certain findings regarding the transportation of hazardous materials.

Sec. 9004. Purposes

This section amends section 49 U.S.C. § 5101 to remove language that negatively implies the transportation of hazardous materials is dangerous.

Sec. 9005. Definitions

The definition of a "hazmat employer" in section 49 U.S.C. § 5102(4) is amended to delete the term "uses." This change is not intended to eliminate any employee training requirements, but simply clarifies who is responsible for the training. This section does not change the fact that each hazmat employee, even if self-employed, has a hazmat employer responsible for training that employee. This section would still require a hazmat employer to train a hazmat employee employed on "a full time, part time, or temporary basis" (49 U.S.C. § 5102(4)(A)(i)(I)).

Section 49 U.S.C. § 5102(13) is amended to revise the definition of "transports" and "transportation" to more clearly identify loading, unloading, handling, and storage as within the jurisdiction of the Pipeline and Hazardous Materials Safety Administration's (PHMSA) regulatory authority and is intended to be consistent with current PHMSA authority. This language covers the full range of transportation from the loading of the material at its origin to the unloading of the material at its destination.

Sec. 9006. General regulatory authority

Section 49 U.S.C. § 5103(b)(1)(A) is amended to add a new clause (vii) that clarifies that PHMSA's regulations apply to those persons providing hazmat emergency response information services.

A new subparagraph, 49 U.S.C. § 5103(b)(1)(C), is added to require that procedures and criteria for fitness determinations in applications for approvals and special permits must be developed through notice and comment rulemaking.

A new paragraph, 49 U.S.C. § 5103(b)(3), is added which provides that before any final regulation is issued, the Administrator shall consider the governing legal authority; the nature and significance of the problem; whether existing rules have created or contributed to the problem and changes to those rules; the best reasonably obtainable scientific, technical, and other information; the potential costs and benefits; means to increase the cost-effectiveness; incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility; and any reasonable alternatives. The paragraph also requires the Administrator to solicit and take into consideration public comment on these subjects and to follow applicable rulemaking procedures. The new paragraph is only effective with respect to regulations where no notice of proposed rulemaking has been issued.

A new paragraph, 49 U.S.C. § 5103(b)(6), is added to ensure that certain standards developed by private entities, who charge individuals for copies of those standards, will not be incorporated into the regulations without consideration of the costs of the publication, broadness of its application, and alternatives to incorporation of the standards. The Secretary would be required to use the standards or the alternative that meets safety objectives in the most cost-effective manner.

Sec. 9007. Inspections of motor vehicles transporting radioactive material

This section amends 49 U.S.C. § 5105(d) to create uniformity among states regarding inspections of interstate movements of certain radioactive materials such that commerce is not disrupted at each state line. These changes would only allow states to conduct a new inspection of the materials at the highest level, as those inspection levels are defined by the Commercial Vehicle Safety Alliance, where an en route change has occurred. This section is intended to preserve the states' ability to conduct lower level inspections.

Sec. 9008. Hazmat employee training requirements and grants

Section 49 U.S.C. § 5107 is amended to eliminate a narrowly defined designation of an eligible recipient of grant funds for hazmat employee training grants. The intent of this section is to eliminate duplicative training, as hazmat employers are already required to train hazmat employees.

Section 49 U.S.C. § 5107(f) is amended to remove the Occupational Safety and Health Administration's (OSHA) overlapping jurisdiction regarding regulation of the handling of hazardous materials. This section is intended to cover handling hazardous materials when such handling is incidental to the movement of the hazardous materials. Nothing in this section leaves the handling hazardous materials in transportation unregulated, as either PHMSA or OSHA regulations will still be applicable. Instead, it clarifies that when PHMSA regulates the handling of hazardous materials incidental to transportation, OSHA regulations on that specific issue would be preempted, as they are in most other circumstances where another agency's regulations affect the occupational safety and health of workers. (See 29 U.S.C. § 653(b)(1).) This provision is not intended to supplant OSHA rules governing emergency response or safety rules related to non-transportation activities.

Sec. 9009. Fees

Section 49 U.S.C. § 5108 is amended to eliminate minimum registration fees and is intended to allow for greater flexibility of the Secretary in determining fee levels.

A new subparagraph (D) is added to ensure that (1) no new fee authority is allowed for special permit and/or approval applications, and (2) to keep the Secretary from charging higher registration fees to special permit or approval holders/applicants as a substitute for application fee authority. The intent of this section is to eliminate the imposition of any increased fees on industry.

Sec. 9010. Motor carrier safety permits

Section 49 U.S.C. § 5109 is amended to reflect appropriate DOT nomenclature for explosives in paragraph (b)(1) and "offerors" in subsection (f).

Section 9010 requires a review and report for the motor carrier permit program that would resolve a concern that permits are denied because the safety standard changes from cycle-to-cycle. Currently, this cyclical change creates uncertainty for businesses as the standard can vary based on the performance of other motor carriers. The report requires identification of stakeholder concerns,

information regarding permit issuance and denial, and the Secretary's description of actions to address the concerns. This section also requires a report to Congress on the program. Finally, the section requires the Secretary to issue regulations to resolve any programmatic concerns and ensure consistent standards.

Sec. 9011. Planning and training grants, monitoring, and review

This section makes amendments to 49 U.S.C. § 5116 to increase the flexibility of how the Secretary allocates grant money for states between planning and training grants. These changes require recipients to certify that their fees are fair and properly reported and that the Secretary report on both planning and training grants.

This section also amends 49 U.S.C. § 5116(j) to make the supplemental training grants program more generally applicable. It also allows for the grants to be used for portable training at national consensus standard levels.

Sec. 9012. Special permits and exclusions

Section 49 U.S.C. § 5117 is amended to ensure that the procedures and criteria for applying for special permits are established through notice and comment rulemaking. The intent of providing procedures and criteria through notice and comment rulemaking is to allow the regulated industry and the public the opportunity to comment on those procedures and criteria. Currently, those procedures and criteria are published in standard operating procedures that were not developed through notice and comment rulemaking.

This section also requires that special permits be incorporated into the regulations once they are proven to be safe. Under this section, a special permit will be given the opportunity to be incorporated into the regulations if it has been in place for more than six years and meets certain standards, including that it concerns a matter of general applicability, has future effect, and is consistent with safety. This section also recognizes that a number of special permits currently in effect meet these criteria and should be given the opportunity to be incorporated into the regulations. This amended section allows the Secretary three years to incorporate all outstanding special permits that are six years or older and meet the standards set forth in the subsection.

This section also does not allow a special permit application for modification, renewal, or party status to be denied solely because an applicant's hazmat out of service percentage is greater than the national average. This section does not prohibit denial for other reasons in addition to the hazmat out of service percentage being greater than the national average.

Sec. 9013. Hazardous material uniform motor carrier permit program

Section 49 U.S.C. § 5119 is amended to resolve the lack of uniformity among the states in hazardous material permitting programs. These revisions make the uniform program mandatory for the states by only allowing the states to enforce registration and permitting that conforms to this uniform program. The section is intended to leave in place the right of states to charge fees for registration and permitting.

Sec. 9014. International uniformity of standards and requirements

This section amends 49 U.S.C. § 5120 to ensure that PHMSA is the agency representing the nation on international forums regarding the transportation of hazardous materials in international commerce. Since 1967, PHMSA has been the lead agency in such international work, but recently was replaced in these forums by other modal administrations whose responsibilities are not solely transportation of hazardous materials.

Sec. 9015. Investigations

This section amends 49 U.S.C. § 5121 to ensure that the Secretary's authority to open and inspect packages applies only to undeclared packages, that the inspection occur in an appropriate facility, and that notice be given to the offeror and carrier of such inspection.

This section also requires a rulemaking on the authority to open and inspect packages that will help avoid delay in transporting time-sensitive materials, ensure proper training and equipment for inspectors, ensure proper restoration of the package for resumed transportation, and take into consideration the cost and damages that the inspection may cause.

Sec. 9016. Building partnerships for improved safety and system performance

This section added a new paragraph, 49 U.S.C. § 5121(g)(4), to allow the Secretary to make grants and cooperative agreements to provide consistent training on enforcement among the states. Coupled with changes to 49 U.S.C. § 5125 on uniform enforcement standards, this change will help ensure enforcement is conducted state-to-state in a uniform manner.

Sec. 9017. Safety reporting

This section amends 49 U.S.C. § 5121(h) to require that the biennial report on transportation of hazardous materials include all modes set forth by type and quantity, a basis for all special permits issued, the activities of undeclared package inspections and emergency orders.

Sec. 9018. Civil penalties

This section deletes the minimum penalties for violations in 49 U.S.C. § 5123(a) to give the Secretary more discretion and flexibility for situations where a violation is minor. This section does not, however, preclude the Secretary from imposing a fine equal to what is the current minimum if the Secretary deems it necessary in a particular circumstance.

A new paragraph, 49 U.S.C. § 5123(a)(4), is added to ensure a carrier at a road/trackside inspection is not cited for violations over which the carrier had no control. Carriers are often cited for violations of regulations for which the carrier is not responsible, so the intent of this section is to limit citations of carriers for pre-transportation functions performed by another person.

This section also adds new subsection 49 U.S.C. § 5123(h) which enhances safety by imposing penalties for failing to maintain records, reports, and information.

Sec. 9019. Preemption

A new paragraph, 49 U.S.C. § 5125(a)(3), is added to allow the Secretary to make the determination that a particular local law creates an unreasonable burden on commerce. This provision would allow the DOT to preempt state and local laws that are deemed an unreasonable burden on commerce. Currently, that analysis is left to the courts. This change would allow the entity with expertise in transporting hazardous materials in commerce to determine, in the first instance, whether a particular state or local law unreasonably burdens commerce.

This section strikes "written" from 49 U.S.C. § 5125(b)(1)(D) to remedy the problem of each state or jurisdiction within a state having different verbal notification requirements for unintentional release of a hazardous material. This section is intended to create uniformity in verbal notification requirements and does not prohibit the Secretary from amending verbal notification requirements under the regulations.

This section also amends 49 U.S.C. § 5125(c)(1) to require all hazmat routes either be registered on the DOT'S route registry or deemed unenforceable by the states. This section is intended to ensure that carriers may use this route registry to determine the routes that they may travel.

This section requires the reporting on fee usage in 49 U.S.C. § 5125(f)(2) be on a biennial basis rather than at the Secretary's discretion to enhance transparency.

Section 9019 also requires uniform enforcement standards, such as standards for procedure, penalty, and mental state, among the states.

Sec. 9020. Authorization of appropriations

This section amends 49 U.S.C. § 5128 to authorize appropriations of funds for PHMSA's hazardous materials programs $39,000,000 annually for fiscal years 2012 through 2016. Authorizations for activities under the Hazardous Materials Emergency Preparedness Fund, which is funded by annual hazardous materials registration fees, total $23,763,000 million annually for fiscal years 2012 through 2016.

This section also amends 49 U.S.C. § 5128(b) to make the hazardous materials emergency preparedness grant program more flexible by granting the Secretary the discretion to allocate funds between training and planning. This section also makes a conforming amendment to delete the funding for the grants eliminated under section 9008.

A new subsection, 49 U.S.C. § 5128(e), is added to authorize the appropriation of $1,000,000 for the implementation by states of the uniform forms and procedures under 49 U.S.C. § 5119. This one-time authorization of funds remains available for a six-year period beginning on the date of enactment.

Sec. 9021. Electronic shipping papers pilot program

This section establishes a pilot program to determine whether electronic shipping papers would be cost effective for the motor carrier industry, and requires at least one pilot program to be in a rural area.

Sec. 9022. Wetlines study

This section requires a study on cargo tank truck external product piping, or "wetlines", to identify whether regulation is cost efficient, while prohibiting final rules on the matter.

Sec. 9023. Product study

This section requires a study on whether certain common household products containing ethyl alcohol need be regulated as hazardous materials, including evaluations of incidents containing the products, risks posed by the products, costs to industry of the designation, and comments from the industry and public regarding the designation.

TITLE X—WATERBORNE TRANSPORTATION

Sec. 10001. Sense of Congress on harbor maintenance

This section establishes a Sense of Congress that the funds collected by the Harbor Maintenance Tax be utilized for their intended purpose. The Harbor Maintenance Trust Fund provides funds for the United States Army Corps of Engineers to carry out the dredging of navigation channels to their authorized depths and widths.

Sec. 10002. Study and report on strategic ports

This section requires the Secretary of Transportation to carry out a study to determine the land-side infrastructure requirements of the nation's 21 strategic ports. These ports are designated by DOT and the Department of Defense as integral to the readiness capability of the nation's armed forces.

TITLE XI—REAUTHORIZATION AND AMENDMENTS TO THE SPORT FISH RESTORATION AND BOATING TRUST FUND

Sec. 11001. Short title

This establishes the short title for Title XI as the "Sportfishing and Recreational Boating Safety Act of 2012".

Sec. 11002. Reauthorization and amendments to the sport fish restoration and boating trust fund

This section reauthorizes the Dingell/Johnson Sport Fish Restoration Act through fiscal year 2016. It reduces Coast Guard administrative expenses and reallocates funding to the Coast Guard's Recreational Boating Safety Program and Recreational Boating Safety grants available to the states.

Title XI does not affect the Act's sport fish restoration programs, nor does it make changes to the Act's formulas or financing mechanisms.

TITLE XII—EXTENSION OF SURFACE TRANSPORTATION PROGRAMS

Sec. 12001. Short title; effective date

This title may be cited as the "Surface Transportation Extension Act of 2012".

The amendments made by this title take effect on April 1, 2012.

Subtitle A—Federal-Aid Highways

Sec. 12101. Extension of federal-aid highway programs

This section extends the federal-aid highway programs through fiscal year 2012.

Subtitle B—Extension of Highway Safety Programs

Sec. 12201. Extension of National Highway Traffic Safety Administration highway safety programs

This section extends the National Highway Traffic Safety Administration Highway Safety programs through fiscal year 2012.

Sec. 12202. Extension of Federal Motor Carrier Safety Administration programs

This section extends the Federal Motor Carrier Safety Administration programs through fiscal year 2012.

Sec. 12203. Additional programs

This section extends hazmat research projects and the Dingell-Johnson Sport Fish Restoration Act through fiscal year 2012.

Subtitle C—Public Transportation Programs

Sec. 12301. Allocation of funds for planning programs

This section extends funding for public transportation planning programs through fiscal year 2012.

Sec. 12302. Special rule for urbanized area formula grants

This section extends the special rule for urbanized area formula grants through fiscal year 2012.

Sec. 12303. Allocating amounts for capital investment grants

This section extends capital investment grants through fiscal year 2012.

Sec. 12304. Apportionment of formula grants for other than urbanized areas

This section extends the apportionment of formula grants for other than urbanized areas through fiscal year 2012.

Sec. 12305. Apportionment based on fixed guideway factors

This section strikes subsection (g) from 49 U.S.C. § 5337.

Sec. 12306. Authorizations for public transportation

This section extends authorizations for public transportation through fiscal year 2012.

Sec. 12307. Amendments to SAFETEA–LU

This section extends the amendments to SAFETEA–LU through fiscal year 2012.

TITLE XIII—ADDITIONAL TRANSPORTATION PROVISIONS

Sec. 13001. Audit of Union Station Redevelopment Corporation

This section directs the Inspector General of the DOT to audit the Union Station Redevelopment Corporation once every two years.

Sec. 13002. Prohibition on use of funds

This section prohibits funds made available in this Act from being used for signage indicating the project was funded under this Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

[The Surface Transportation Extension Act of 2012 (title XII of H.R. 7, as reported) provides for a short term extension of surface transportation programs. The amendments to provisions of existing law made by such title, set out below, take effect on April 1, 2012.]

SURFACE TRANSPORTATION EXTENSION ACT OF 2011, PART II

* * * * * * *

TITLE I—EXTENSION OF SURFACE TRANSPORTATION PROGRAMS

* * * * * * *

Subtitle A—Federal-Aid Highways

SEC. 111. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) IN GENERAL.—Except as provided in this title, requirements, authorities, conditions, eligibilities, limitations, and other provisions authorized under titles I, V, and VI of SAFETEA-LU (Public Law 109-59), the SAFETEA-LU Technical Corrections Act of 2008 (Public Law 110-244), titles I and VI of the Intermodal Surface Transportation Act of 1991 (Public Law 102-240), titles I and V of the Transportation Equity Act for the 21st Century (Public Law 105-178), and title 23, United States Code (excluding chapter 4 of that title), which would otherwise expire on or cease to apply after September 30, 2011, under section 411(a) of the Surface Transportation Extension Act of 2010 (title IV of Public Law 111-147) are incorporated by reference and shall continue in effect until **[**March 31, 2012**]** *September 30, 2012*.

(b) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in section 112, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for **[**the period beginning on October 1, 2011, and ending on March 31, 2012,**]** *fiscal year 2012* a sum equal to **[**½ of**]** the total amount authorized

to be appropriated out of the Highway Trust Fund for programs, projects, and activities for fiscal year 2011 under titles I, V, and VI of SAFETEA-LU (119 Stat. 1144) and title 23, United States Code (excluding chapter 4 of that title).

(c) USE OF FUNDS.—

(1) FISCAL YEAR 2012.—Except as otherwise expressly provided in this title, funds authorized to be appropriated under subsection (b) for [the period beginning on October 1, 2011, and ending on March 31, 2012,] *fiscal year 2012* shall be distributed, administered, limited, and made available for obligation in the same manner and at the same level as [½ of] the total amount of funds authorized to be appropriated out of the Highway Trust Fund for fiscal year 2011 to carry out programs, projects, activities, eligibilities, and requirements under SAFETEA-LU (Public Law 109-59), the SAFETEA-LU Technical Corrections Act of 2008 (Public Law 110-244), titles I and VI of the Intermodal Surface Transportation Act of 1991 (Public Law 102-240), titles I and V of the Transportation Equity Act for the 21st Century (Public Law 105-178), and title 23, United States Code (excluding chapter 4 of that title).

* * * * * * *

(3) CONTRACT AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds authorized to be appropriated under this section shall be available for obligation and shall be administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, and for [the period beginning on October 1, 2011, and ending on March 31, 2012,] *fiscal year 2012* shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs included in an Act making appropriations for fiscal year 2012 or a portion of that fiscal year[, except that during such period obligations subject to such limitation shall not exceed ½ of the limitation on obligations included in an Act making appropriations for fiscal year 2012].

(B) EXCEPTIONS.—A limitation on obligations described in subparagraph (A) shall not apply to any obligation under—

(i) * * *

(ii) section 105 of title 23, United States Code, for [the period beginning on October 1, 2011, and ending on March 31, 2012,] *fiscal year 2012* only in an amount equal to [$319,500,000] *$639,000,000*.

[(4) CALCULATIONS FOR DISTRIBUTION OF OBLIGATION LIMITATION.—Upon enactment of an Act making appropriations for the Department of Transportation for fiscal year 2012 (other than an Act or resolution making continuing appropriations), the Secretary shall—

[(A) as necessary for purposes of making the calculations for the distribution of any obligation limitation under such Act, annualize the amount of contract authority provided under this title for the period beginning on October 1, 2011, and ending on March 31, 2012, for Federal-aid highways and highway safety construction programs; and

[(B) multiply the resulting distribution of any obligation limitation under such Act by ½.]

(d) EXTENSION AND FLEXIBILITY FOR CERTAIN ALLOCATED PROGRAMS.—

(1) FISCAL YEAR 2012.—Notwithstanding any other provision of law, for [the period beginning on October 1, 2011, and ending on March 31, 2012,] *fiscal year 2012* the portion of the share of funds of a State under subsection (b) determined by [½ of] the amount that the State received or was authorized to receive for fiscal year 2011 to carry out sections 1301, 1302, 1307, 1702, and 1934 of SAFETEA-LU (119 Stat. 1198, 1204, 1217, 1256, and 1485) and section 144(f)(1) of title 23, United States Code, shall be—

(A) * * *

* * * * * * *

(2) TERRITORIES AND PUERTO RICO.—

(A) FISCAL YEAR 2012.—Notwithstanding any other provision of law, for [the period beginning on October 1, 2011, and ending on March 31, 2012,] *fiscal year 2012* the portion of the share of funds of a territory or Puerto Rico under subsection (b) determined by [½ of] the amount that the territory or Puerto Rico received or was authorized to receive for fiscal year 2011 to carry out section 1934 of SAFETEA-LU (119 Stat. 1485), shall be—

(i) * * *

* * * * * * *

(e) EXTENSION OF AUTHORIZATIONS UNDER TITLE V OF SAFETEA-LU.—

(1) IN GENERAL.—The programs authorized under paragraphs (1) through (5) of section 5101(a) of SAFETEA-LU (119 Stat. 1779) shall be continued for [the period beginning on October 1, 2011, and ending on March 31, 2012,] *fiscal year 2012* at [½ of] the funding levels authorized for those programs for fiscal year 2011.

(2) DISTRIBUTION OF FUNDS.—Funds for programs continued under paragraph (1) shall be distributed to major program areas under those programs in the same proportions as funds were allocated for those program areas for fiscal year 2011, except that designations for specific activities shall not be required to be continued for [the period beginning on October 1, 2011, and ending on March 31, 2012.] *fiscal year 2012.*

* * * * * * *

SEC. 112. ADMINISTRATIVE EXPENSES.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—Notwithstanding any other provision of this title or any other law, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account), from amounts provided under section 111, for administrative expenses of the Federal-aid highway program [$196,427,625 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *$392,855,250 for fiscal year 2012.*

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* * * * * * *

TITLE II—HIGHWAY SAFETY

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

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

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, $163,680,000 for fiscal year 2005, $217,000,000 for fiscal year 2006, $220,000,000 for fiscal year 2007, $225,000,000 for fiscal year 2008, [$235,000,000 for fiscal year 2009, $235,000,000 for fiscal year 2010, $235,000,000 for fiscal year 2011, and $117,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $235,000,000 for each of fiscal years 2009 through 2012.*

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code, $71,424,000 for fiscal year 2005, $110,000,000 for fiscal year 2006, $107,750,000 for fiscal year 2007, $107,750,000 for fiscal year 2008, $105,500,000 for fiscal year 2009, $107,329,000 for fiscal year 2010, [$108,244,000 for fiscal year 2011, and $54,122,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $108,244,000 for each of fiscal years 2011 and 2012.*

(3) OCCUPANT PROTECTION INCENTIVE GRANTS.—For carrying out section 405 of title 23, United States Code, $19,840,000 for fiscal year 2005[, $25,000,000 for fiscal year 2006, $25,000,000 for fiscal year 2007, $25,000,000 for fiscal year 2008, $25,000,000 for fiscal year 2009, $25,000,000 for fiscal year 2010, $25,000,000 for fiscal year 2011, and $12,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $25,000,000 for each of fiscal years 2006 through 2012.*

(4) SAFETY BELT PERFORMANCE GRANTS.—For carrying out section 406 of title 23, United States Code, $124,500,000 for fiscal year 2006, $124,500,000 for fiscal year 2007, $124,500,000 for fiscal year 2008, $124,500,000 for fiscal year 2009, $124,500,000 for fiscal year 2010, $124,500,000 for fiscal year 2011, [and $24,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $48,500,000 for fiscal year 2012.*

(5) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code, $34,500,000 [for fiscal year 2006, $34,500,000 for fiscal year 2007, $34,500,000 for fiscal year 2008, $34,500,000 for fiscal year 2009, $34,500,000 for fiscal year 2010, $34,500,000 for fiscal year 2011, and $17,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *for each of fiscal years 2006 through 2012.*

(6) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—For carrying out section 410 of title 23,

United States Code, $39,680,000 for fiscal year 2005, $120,000,000 for fiscal year 2006, $125,000,000 for fiscal year 2007, $131,000,000 for fiscal year 2008, [$139,000,000 for fiscal year 2009, $139,000,000 for fiscal year 2010, $139,000,000 for fiscal year 2011, and $69,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $139,000,000 for each of fiscal years fiscal years 2009 through 2012.*

(7) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code, $3,968,000 for fiscal year 2005, $4,000,000 for fiscal year 2006, $4,000,000 for fiscal year 2007, $4,000,000 for fiscal year 2008, $4,000,000 for fiscal year 2009, $4,078,000 for fiscal year 2010, $4,116,000 for fiscal year 2011, [and $2,058,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $4,000,000 for fiscal year 2012.*

(8) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of this title $29,000,000 [for fiscal year 2006, $29,000,000 for fiscal year 2007, $29,000,000 for fiscal year 2008, $29,000,000 for fiscal year 2009, $29,000,000 for fiscal year 2010, $29,000,000 for fiscal year 2011, and $14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *for each of fiscal years 2006 through 2012.*

(9) MOTORCYCLIST SAFETY.—For carrying out section 2010 of this title $6,000,000 for fiscal year 2006, $6,000,000 for fiscal year 2007, $6,000,000 for fiscal year 2008, [$7,000,000 for fiscal year 2009, $7,000,000 for fiscal year 2010, $7,000,000 for fiscal year 2011, and $3,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $7,000,000 for each of fiscal years 2009 through 2012.*

(10) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—For carrying out section 2011 of this title $6,000,000 for fiscal year 2006, $6,000,000 for fiscal year 2007, $6,000,000 for fiscal year 2008, [$7,000,000 for fiscal year 2009, $7,000,000 for fiscal year 2010, $7,000,000 for fiscal year 2011, and $3,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $7,000,000 for each of fiscal years 2009 through 2012.*

(11) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this title $17,500,000 for fiscal year 2006, $17,750,000 for fiscal year 2007, $18,250,000 for fiscal year 2008, $18,500,000 for fiscal year 2009, $25,047,000 for fiscal year 2010, [$25,328,000 for fiscal year 2011, and $12,664,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $25,328,000 for each of fiscal years 2011 and 2012.*

* * * * * * *

TITLE III—PUBLIC TRANSPORTATION

* * * * * * *

SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) * * *

* * * * * * *

(i) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through [2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012,* a recipient of assistance under section 5307 of such title in urbanized areas with a population of 558,329 or 747,003 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of such title for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

* * * * * * *

SEC. 3011. CAPITAL INVESTMENT GRANTS.

(a) * * *

* * * * * * *

(c) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—

(1) * * *

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(5) PROGRAM TERM.—The Secretary may approve an application of a recipient for a public-private partnership for fiscal years 2006 through [2011 and the period beginning on October 1, 2011, and ending on March 31, 2012] *2012*.

* * * * * * *

(d) RESTRICTIONS ON USE OF BUS CATEGORY FUNDS FOR FIXED GUIDEWAY PROJECTS.—Funds provided to grantees under the bus and bus facility category for fixed guideway ferry and gondola projects in the Department of Transportation and Related Agencies Appropriations Acts for any of fiscal years 1998 through 2005, or accompanying committee reports, that remain available and unobligated may be used for new fixed guideway capital projects under section 5309 of title 49, United States Code. Funds made available to the same grantees for similar projects under the bus and bus facility category of section 5309 of title 49, United States Code, in fiscal years 2006 through [2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* may be used for fixed guideway projects under that section.

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SEC. 3012. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

(a) * * *

(b) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—

(1) * * *

* * * * * * *

(8) SUNSET.—This subsection shall cease to be effective on [March 31, 2012] *September 30, 2012*.

* * * * * * *

SEC. 3040. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (f) of section 5338 of title 49, United States Code, shall not exceed—

(1) * * *

* * * * * * *

[(8) $5,059,238,000 for the period beginning on October 1, 2011, and ending on March 31, 2012, of which not more than $4,180,282,500 shall be from the Mass Transit Account.]

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

* * * * * * *

SEC. 3043. PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.

(a) * * *

(b) FINAL DESIGN AND CONSTRUCTION.—The following projects are authorized for final design and construction for fiscal years 2005 through [2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* under paragraphs (1)(A) and (2)(A) of section 5309(m) of title 49, United States Code:

(1) * * *

* * * * * * *

(c) PRELIMINARY ENGINEERING.—The following projects are authorized for preliminary engineering for fiscal years 2005 through [2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* under paragraphs (1)(A) and (2)(A) of section 5309(m) of title 49, United States Code:

(1) * * *

* * * * * * *

SEC. 3046. ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.

(a) * * *

(b) REMAINDER.—After making allocations under subsection (a), the remainder of funds made available by section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 for a [fiscal year or period] *fiscal year* shall be allocated at the discretion of the Secretary to other transit research, development, demonstration and deployment projects authorized by sections 5312, 5314, and 5322 of such title.

(c) ADDITIONAL APPROPRIATIONS.—The Secretary shall allocate amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title—

(1) * * *

[(2) for the period beginning on October 1, 2011, and ending on March 31, 2012, in amounts equal to 50 percent of 85 per-

cent of the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), (6), and (8) through (25) of subsection (a).]

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

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TITLE IV—MOTOR CARRIER SAFETY

* * * * * * *

Subtitle A—Commercial Motor Vehicle Safety

SEC. 4101. AUTHORIZATION OF APPROPRIATIONS.

(a) * * *

* * * * * * *

(c) GRANT PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) the following sums for the following Federal Motor Carrier Safety Administration programs:

(1) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—For commercial driver's license program improvement grants under section 31313 of title 49, United States Code $25,000,000 for each of fiscal years 2006 through 2011 [and $15,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *and $30,000,000 for fiscal year 2012.*

(2) BORDER ENFORCEMENT GRANTS.—For border enforcement grants under section 31107 of such title $32,000,000 for each of fiscal years 2006 through [2011 and $16,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *2012.*

(3) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANT PROGRAM.—For the performance and registration information system management grant program under section 31109 of such title $5,000,000 for each of fiscal years 2006 through [2011 and $2,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *2012.*

(4) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—For carrying out the commercial vehicle information systems and networks deployment program under section 4126 of this Act, $25,000,000 for each of fiscal years 2006 through [2011 and $12,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *2012.*

(5) SAFETY DATA IMPROVEMENT GRANTS.—For safety data improvement grants under section 4128 of this Act $2,000,000 for fiscal year 2006 and $3,000,000 for each of fiscal years 2007 through [2011 and $1,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.] *2012.*

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SEC. 4127. OUTREACH AND EDUCATION.

(a) * * *

* * * * * * *

(e) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 to the Federal Motor Carrier Safety Administration, and $3,000,000 to the National Highway Traffic Safety Administration, for each of fiscal years 2006, 2007, 2008, 2009, 2010, [and 2011 (and $500,000 to the Federal Motor Carrier Safety Administration, and $1,500,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2011, and ending on March 31, 2012)] *2011, and 2012* to carry out this section (other than subsection (f)).

* * * * * * *

SEC. 4134. GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) * * *

* * * * * * *

(c) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 for each of fiscal years 2005 through [2011 and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* to carry out this section.

* * * * * * *

SEC. 4144. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

(a) * * *

* * * * * * *

(d) TERMINATION DATE.—Notwithstanding the Federal Advisory Committee Act (5 U.S.C. App.), the advisory committee shall terminate on [March 31, 2012] *September 30, 2012*.

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Subtitle B—Household Goods Transportation

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SEC. 4213. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.

(a) * * *

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(d) TERMINATION DATE.—The working group shall remain in effect until [March 31, 2012] *September 30, 2012*.

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TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

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Subtitle A—General Authorities on Transportation of Hazardous Materials

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SEC. 7131. HAZARDOUS MATERIALS RESEARCH PROJECTS.

(a) * * *

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(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,250,000 for each of fiscal years 2006 through [2011 and $580,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* shall be available to carry out this section.

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TITLE 49, UNITED STATES CODE

* * * * * * *

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

* * * * * * *

CHAPTER 53—PUBLIC TRANSPORTATION

* * * * * * *

§ 5305. Planning programs

(a) * * *

* * * * * * *

(g) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under section 5338(c) for fiscal years 2005 through [2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012] *2012*—

(1) * * *

* * * * * * *

§ 5307. Urbanized area formula grants

(a) * * *

(b) GENERAL AUTHORITY.—

(1) * * *

(2) [SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012.—] *SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2012.—*

(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through [2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012,* to finance the operating cost of equipment and facilities for use in public

transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population, if—

(i) * * *

* * * * * * *

(E) [MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012.—] *MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2012*.—In each of fiscal years 2008 through [2011 and during the period beginning on October 1, 2011, and ending on March 31, 2012] *2012*—

(i) * * *

* * * * * * *

§ 5309. Capital investment grants

(a) * * *

* * * * * * *

(m) ALLOCATING AMOUNTS.—

(1) * * *

(2) [FISCAL YEARS 2006 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012.—] *FISCAL YEARS 2006 THROUGH 2012*.—The amounts made available or appropriated for fiscal years 2006 through [2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* under sections 5338(b) and 5338(c) shall be allocated as follows:

(A) CAPITAL INVESTMENT GRANTS.—Of the amounts appropriated under section 5338(c)—

(i) $200,000,000 for each of fiscal years 2007 through [2011 and $100,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* shall be allocated for projects for new fixed guideway capital projects of less than $75,000,000 in accordance with subsection (e); and

* * * * * * *

(6) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

(A) * * *

(B) $15,000,000 shall be available in each of fiscal years 2006 through [2011 and $7,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* for capital projects in Alaska and Hawaii for new fixed guideway ferry systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

(C) $5,000,000 shall be available for each of fiscal years 2006 though [2011 and $2,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for docks, waterfront development projects, and related transportation infrastructure.

(7) BUS AND BUS FACILITY GRANTS.—The amounts made available under paragraphs (1)(C) and (2)(C) shall be allocated as follows:

(A) FERRY BOAT SYSTEMS.—$10,000,000 shall be available in each of fiscal years 2006 through [2011 and $5,000,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* for ferry boats or ferry terminal facilities. Of such funds, the following amounts shall be set aside for *each fiscal year*:

(i) $2,500,000 [for each fiscal year and $1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] for the San Francisco Water Transit Authority.

(ii) $2,500,000 [for each fiscal year and $1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] for the Massachusetts Bay Transportation Authority Ferry System.

(iii) $1,000,000 [for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] for the Camden, New Jersey Ferry System.

(iv) $1,000,000 [for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] for the Governor's Island, New York Ferry System.

(v) $1,000,000 [for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] for the Philadelphia Penn's Landing Ferry Terminal.

(vi) $1,000,000 [for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] for the Staten Island Ferry.

(vii) $650,000 [for each fiscal year and $325,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] for the Maine State Ferry Service, Rockland.

(viii) $350,000 [for each fiscal year and $175,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] for the Swans Island, Maine Ferry Service.

(B) FUEL CELL BUS PROGRAM.—The following amounts shall be set aside for the national fuel cell bus technology development program under section 3045 of the Federal Public Transportation Act of 2005:

(i) * * *

* * * * * * *

[(vii) $6,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.]

(vii) $13,500,000 for fiscal year 2012.

(C) PROJECTS NOT IN URBANIZED AREAS.—Not less than 5.5 percent shall be available in each fiscal year [and during the period beginning on October 1, 2011, and ending on March 31, 2012,] for projects that are not in urbanized areas.

(D) INTERMODAL TERMINALS.—Not less than $35,000,000 shall be available in each fiscal year [and not less than $17,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,] for intermodal terminal projects, including the intercity bus portion of such projects.

(E) BUS TESTING.—$3,000,000 shall be available in each fiscal year [and $1,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,] for bus testing under section 5318.

* * * * * * *

§ 5311. Formula grants for other than urbanized areas

(a) * * *

* * * * * * *

(c) APPORTIONMENTS.—

(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

(A) * * *

* * * * * * *

[(G) $7,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.]

(G) $15,000,000 for fiscal year 2012.

* * * * * * *

§ 5337. Apportionment based on fixed guideway factors

(a) * * *

* * * * * * *

[(g) SPECIAL RULE FOR OCTOBER 1, 2011, THROUGH MARCH 31, 2012.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning on October 1, 2011, and ending on March 31, 2012, in accordance with subsection (a), except that the Secretary shall apportion 50 percent of each dollar amount specified in subsection (a).]

§ 5338. Authorizations

(a) * * *

(b) FORMULA AND BUS GRANTS.—

(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.) —

(A) * * *

* * * * * * *

[(G) $4,180,282,500 for the period beginning on October 1, 2011, and ending on March 31, 2012.]

(G) $8,360,565,000 for fiscal year 2012.

(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

(A) $95,000,000 for fiscal year 2006, $99,000,000 for fiscal year 2007, $107,000,000 for fiscal year 2008, [$113,500,000 for each of fiscal years 2009 and 2010, $113,500,000 for fiscal year 2011, and $56,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $113,500,000 for each of fiscal years 2009 through 2012* shall be available to carry out section 5305;

(B) $3,466,681,000 for fiscal year 2006, $3,606,175,000 for fiscal year 2007, $3,910,843,000 for fiscal year 2008, [$4,160,365,000 for each of fiscal years 2009 and 2010, $4,160,365,000 for fiscal year 2011, and $2,080,182,500 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $4,160,365,000 for each of fiscal years 2009 through 2012* shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

(C) $43,000,000 for fiscal year 2006, $45,000,000 for fiscal year 2007, $49,000,000 for fiscal year 2008, [$51,500,000 for each of fiscal years 2009 and 2010, $51,500,000 for fiscal year 2011, and $25,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $51,500,000 for each of fiscal years 2009 through 2012* shall be available to carry out section 5308;

(D) $1,391,000,000 for fiscal year 2006, $1,448,000,000 for fiscal year 2007, $1,570,000,000 for fiscal year 2008, [$1,666,500,000 for each of fiscal years 2009 and 2010, $1,666,500,000 for fiscal year 2011, and $833,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $1,666,500,000 for each of fiscal years 2009 through 2012* shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(m)(2)(B);

(E) $822,250,000 for fiscal year 2006, $855,500,000 for fiscal year 2007, $927,750,000 for fiscal year 2008, [$984,000,000 for each of fiscal years 2009 and 2010, $984,000,000 for fiscal year 2011, and $492,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $984,000,000 for each of fiscal years 2009 through 2012* shall be available to carry out section 5309(m)(2)(C);

(F) $112,000,000 for fiscal year 2006, $117,000,000 for fiscal year 2007, $127,000,000 for fiscal year 2008, [$133,500,000 for each of fiscal years 2009 and 2010, $133,500,000 for fiscal year 2011, and $66,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $133,500,000 for each of fiscal years 2009 through 2012* shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

(G) $388,000,000 for fiscal year 2006, $404,000,000 for fiscal year 2007, $438,000,000 for fiscal year 2008, [$465,000,000 for each of fiscal years 2009 and 2010,

$465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $465,000,000 for each of fiscal years 2009 through 2012* shall be available to provide financial assistance for other than urbanized areas under section 5311;

(H) $138,000,000 for fiscal year 2006, $144,000,000 for fiscal year 2007, $156,000,000 for fiscal year 2008, [$164,500,000 for each of fiscal years 2009 and 2010, $164,500,000 for fiscal year 2011, and $82,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $164,500,000 for each of fiscal years 2009 through 2012* shall be available to carry out section 5316;

(I) $78,000,000 for fiscal year 2006, $81,000,000 for fiscal year 2007, $87,500,000 for fiscal year 2008, [$92,500,000 for each of fiscal years 2009 and 2010, $92,500,000 for fiscal year 2011, and $46,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $92,500,000 for each of fiscal years 2009 through 2012* shall be available to carry out section 5317;

(J) $22,000,000 for fiscal year 2006, $23,000,000 for fiscal year 2007, $25,000,000 for fiscal year 2008, [$26,900,000 for each of fiscal years 2009 and 2010, $26,900,000 for fiscal year 2011, and $13,450,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $26,900,000 for each of fiscal years 2009 through 2012* shall be available to carry out section 5320;

(K) $3,500,000 [in fiscal year 2006; $3,500,000 in fiscal year 2007; $3,500,000 in fiscal year 2008; $3,500,000 for each of fiscal years 2009 and 2010, $3,500,000 for fiscal year 2011, and $1,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *for each of fiscal years 2006 through 2012* shall be available to carry out section 5335;

(L) $25,000,000 [in fiscal year 2006; $25,000,000 in fiscal year 2007; $25,000,000 in fiscal year 2008; $25,000,000 for each of fiscal years 2009 and 2010, $25,000,000 for fiscal year 2011, and $12,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *for each of fiscal years 2006 through 2012* shall be available to carry out section 5339;

(M) $388,000,000 for fiscal year 2006, $404,000,000 for fiscal year 2007, $438,000,000 for fiscal year 2008, [$465,000,000 for each of fiscal years 2009 and 2010, $465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and $465,000,000 for each of fiscal years 2009 through 2012* shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

(N) $7,500,000 for fiscal year 2006, $7,600,000 for fiscal year 2007, $8,300,000 for fiscal year 2008, [$8,800,000 for each of fiscal years 2009 and 2010, $8,800,000 for fiscal year 2011, and $4,400,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *and*

$8,800,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(m)(2)(A)—

(1) * * *

* * * * * * *

[(7) $800,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.]

(7) $1,600,000,000 for fiscal year 2012.

(d) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5506, and national research programs under sections 5312, 5313, 5314, and 5322 $58,000,000 for fiscal year 2006, $61,000,000 for fiscal year 2007, $65,500,000 for fiscal year 2008, $69,750,000 for each of fiscal years 2009 [and 2010, $69,750,000 for fiscal year 2011, and $29,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *through 2011 and $44,000,000 for fiscal year 2012* of which—

(A) * * *

* * * * * * *

[(3) ADDITIONAL AUTHORIZATIONS.—

[(A) OCTOBER 1, 2011, THROUGH MARCH 31, 2012.—Of amounts authorized to be appropriated for the period beginning on October 1, 2011, and ending on March 31, 2012, under paragraph (1), the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 50 percent of 85 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

[(B) UNIVERSITY CENTERS PROGRAM.—

[(i) OCTOBER 1, 2011, THROUGH MARCH 31, 2012.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for the period beginning on October 1, 2011, and ending on March 31, 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 50 percent of 85 percent of the amount allocated for fiscal year 2009 under each such clause.

[(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) for the project or activity for fiscal year 2012, or any subsequent fiscal year.]

(3) ADDITIONAL AUTHORIZATIONS.—

(A) RESEARCH.—Of amounts authorized to be appropriated under paragraph (1) for fiscal year 2012, the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

(B) UNIVERSITY CENTERS PROGRAM.—

(i) FISCAL YEAR 2012.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for fiscal year 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such clause.

(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) for the project or activity for fiscal year 2012 or any subsequent fiscal year.

(e) ADMINISTRATION.—There is authorized to be appropriated to carry out section 5334—

(1) * * *

* * * * * * *

[(7) $49,455,500 for the period beginning on October 1, 2011, and ending on March 31, 2012.**]**

(7) $98,713,000 for fiscal year 2012.

* * * * * * *

SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

* * * * * * *

PART B—COMMERCIAL

* * * * * * *

CHAPTER 311—COMMERCIAL MOTOR VEHICLE SAFETY

* * * * * * *

SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS PROGRAMS

* * * * * * *

§ 31104. Availability of amounts

(a) IN GENERAL.—Subject to subsection (f), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102—

(1) * * *

* * * * * * *

[(8) $106,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.]
(8) $212,000,000 for fiscal year 2012.

* * * * * * *

(i) ADMINISTRATIVE EXPENSES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

(A) * * *

* * * * * * *

[(H) $122,072,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.]
(H) $244,144,000 for fiscal year 2012.

* * * * * * *

(k) HIGH-PRIORITY ACTIVITIES.—

(1) * * *

(2) SET ASIDE.—The Secretary may set aside from amounts made available by subsection (a) up to $15,000,000 for each of fiscal years 2006 through [2011 and $7,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012* for States, local governments, and organizations representing government agencies or officials described in paragraph (3) for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations (including activities and projects that are national in scope), increase public awareness and education, demonstrate new technologies, and reduce the number and rate of accidents involving commercial motor vehicles.

* * * * * * *

SUBCHAPTER III—SAFETY REGULATION

* * * * * * *

§ 31144. Safety fitness of owners and operators

(a) * * *

* * * * * * *

(g) SAFETY REVIEWS OF NEW OPERATORS.—

(1) * * *

* * * * * * *

(5) NEW ENTRANT AUDITS.—

(A) * * *

(B) SET ASIDE.—The Secretary shall set aside from amounts made available by section 31104(a) up to $29,000,000 per fiscal year [and up to $14,500,000 for the period beginning on October 1, 2011, and ending on March

31, 2012,] for audits of new entrant motor carriers conducted pursuant to this paragraph.

* * * * * * *

DINGELL-JOHNSON SPORT FISH RESTORATION ACT

* * * * * * *

SEC. 4. (a) IN GENERAL.—For each of fiscal years 2006 through [2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012,* the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:

(1) * * *

* * * * * * *

(b) SET-ASIDE FOR EXPENSES FOR ADMINISTRATION OF THE DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—

(1) IN GENERAL.—

(A) SET-ASIDE FOR ADMINISTRATION.—From the annual appropriation made in accordance with section 3, for each of fiscal years 2006 through [2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,] *2012,* the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9. The amount specified in subparagraph (B) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) for the fiscal year.

* * * * * * *

[The version of existing law that appears below reflects the amendments made by H.R. 7, as reported, including the provisions subject to the effective date contained in section 3 of the bill. Where certain provisions of existing law are amended by both title XII and other titles of the bill, the version below reflects the execution of amendments by title XII--as if the amendments made by title XII reflect current law--in order to show the proposed amendments made by the other titles of the bill.]

TITLE 23, UNITED STATES CODE

* * * * * * *

CHAPTER 1—FEDERAL-AID HIGHWAYS

Sec.

101. Definitions and declaration of policy.

* * * * * * *

[110. Revenue aligned budget authority.]

* * * * * * *

[117. High priority projects program.]

* * * * * * *

[119. Interstate maintenance program.]

119. National Highway System program.

* * * * * * *

[136. Control of junkyards.]

* * * * * * *

[144. Highway bridge program.]

* * * * * * *

[151. National bridge inspection program.]
151. National highway bridge and tunnel inventory and inspection program.
[152. Hazard elimination program.]

* * * * * * *

[155. Access highways to public recreation areas on certain lakes.
[156. Proceeds from the sale or lease of real property.
[157. Safety incentive grants for use of seat belts.]
156. Sale or lease of real property.

* * * * * * *

[160. Reimbursement for segments of the Interstate System constructed without Federal assistance.]

* * * * * * *

[162. National scenic byways program.]

* * * * * * *

167. Integration of planning and environmental review.
168. Development of programmatic mitigation plans.

§ 101. Definitions and declaration of policy

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

(1) * * *

(2) CARPOOL PROJECT.—The term "carpool project" means any project to encourage the use of carpools and vanpools, including provision of carpooling opportunities to the elderly and individuals with disabilities, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, [and] designating existing facilities for use for preferential parking for carpools*, and real-time ridesharing projects (where drivers, using an electronic transfer of funds, recover costs directly associated with the trip provided using location technology to quantify the direct costs associated with the trip, if the cost recovered does not exceed the cost of the trip provided)*.

* * * * * * *

[(7) FEDERAL LANDS HIGHWAY.—The term "Federal lands highway" means a forest highway, public lands highway, park road, parkway, refuge road, and Indian reservation road that is a public road.]

* * * * * * *

[(9) FOREST HIGHWAY.—The term "forest highway" means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.]

* * * * * * *

[(12) INDIAN RESERVATION ROAD.—The term "Indian reservation road" means a public road that is located within or provides access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian and

Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.]

* * * * * * *

[(19) PARK ROAD.—The term "park road" means a public road, including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles, that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

[(20) PARKWAY.—The term "parkway", as used in chapter 2 of this title, means a parkway authorized by Act of Congress on lands to which title is vested in the United States.]

* * * * * * *

[(24) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term "public lands development roads and trails" means those roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under the control of the Secretary of the Interior.

[(25) PUBLIC LANDS HIGHWAY.—The term "public lands highway" means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.

[(26) PUBLIC LANDS HIGHWAYS.—The term "public lands highways" means those main highways through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, which are on the Federal-aid systems.]

* * * * * * *

[(28) REFUGE ROAD.—The term "refuge road" means a public road that provides access to or within a unit of the National Wildlife Refuge System and for which title and maintenance responsibility is vested in the United States Government.]

* * * * * * *

(35) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term "transportation enhancement activity" means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

(A) * * *

* * * * * * *

[(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).]

[(D)] *(C)* Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

[(E)] *(D)* Landscaping and other scenic beautification.

[(F) Historic preservation.

[(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

[(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).]

[(I)] *(E)* Inventory, control, and removal of outdoor advertising.

[(J)] *(F)* Archaeological planning and research.

[(K)] *(G)* Environmental mitigation—

(i) * * *

* * * * * * *

[(L) Establishment of transportation museums.]

* * * * * * *

(40) FEDERAL LAND MANAGEMENT AGENCY.—The term "Federal land management agency" means each of the following:

(A) The National Park Service.

(B) The Forest Service.

(C) The United States Fish and Wildlife Service.

(D) The Corps of Engineers.

(E) The Bureau of Land Management.

(41) FEDERAL LANDS.—The term "Federal lands" means lands administered by a Federal land management agency.

(42) FEDERAL LANDS HIGHWAY.—The term "Federal lands highway" means a public road, highway, bridge, or trail that is located on, is adjacent to, or provides access to Federal lands and appears on the national inventory of Federal lands highways maintained under section 203(d).

(43) FEDERAL LANDS TRANSPORTATION FACILITY.—The term "Federal lands transportation facility" means a transportation facility eligible for assistance under section 203(b).

(44) TRIBAL ROAD.—The term "tribal road" means a public road, highway, bridge, or trail that is located on or provides access to tribal lands and appears on the national inventory of tribal roads maintained under section 202(c).

(45) TRIBAL TRANSPORTATION FACILITY.—The term "tribal transportation facility" means a transportation facility eligible for assistance under section 202(b).

(b) DECLARATION OF POLICY.—

(1) * * *

* * * * * * *

(4) EXPEDITED PROJECT DELIVERY.—Congress declares that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process. Accordingly, it is the policy of the United States that—

(A) the Secretary shall have the lead role among Federal agencies in carrying out the environmental review process for surface transportation projects;

(B) each Federal agency shall cooperate with the Secretary to expedite the environmental review process for surface transportation projects;

(C) there shall be a presumption that the mode, facility type, and corridor location for a surface transportation project will be determined in the transportation planning process, as established in sections 5203 and 5204 of title 49;

(D) project sponsors shall not be prohibited from carrying out pre-construction project development activities concurrently with the environmental review process;

(E) programmatic approaches shall be used, to the maximum extent possible, to reduce the need for project-by-project reviews and decisions by Federal agencies; and

(F) the Secretary shall actively support increased opportunities for project sponsors to assume responsibilities of the Secretary in carrying out the environmental review process.

* * * * * * *

§ 103. Federal-aid systems

(a) * * *

(b) NATIONAL HIGHWAY SYSTEM.—

(1) DESCRIPTION.—The National Highway System consists of the highway routes and connections to transportation facilities depicted on the map submitted by the Secretary 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 the modifications to the system approved by the Secretary before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012*. The system shall—

(A) * * *

* * * * * * *

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

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

(A) * * *

(B) Other urban and rural principal arterial routes *and border crossings on such routes not included on the National Highway System before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012*.

(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 *not included on the National Highway System before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012*.

* * * * * * *

[(6) STATE ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

[(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

[(B) Operational improvements for segments of the National Highway System.

[(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

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

[(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

[(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

[(D) Highway safety improvements for segments of the National Highway System.

[(E) Transportation planning in accordance with sections 134 and 135.

[(F) Highway research and planning in accordance with chapter 5.

[(G) Highway-related technology transfer activities.

[(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

[(I) Fringe and corridor parking facilities.

[(J) Carpool and vanpool projects.

[(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

[(L) Development, establishment, and implementation of management systems under section 303.

[(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101-640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has

an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).

[(N) Publicly-owned intracity or intercity bus terminals.

[(O) Infrastructure-based intelligent transportation systems capital improvements.

[(Q) Environmental restoration and pollution abatement in accordance with section 328.

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

[(7) TERRITORY ELIGIBLE PROJECTS.—Subject to approval by the Secretary, funds set aside for this program under section 104(b)(1) for the National Highway System may be obligated for projects eligible for assistance under the territorial highway program under section 215.]

(6) REQUIREMENT FOR STATE ASSET MANAGEMENT PLAN FOR NATIONAL HIGHWAY SYSTEM.—

(A) IN GENERAL.—A State shall develop and implement a risk-based State asset management plan for managing all infrastructure assets in the right-of-way corridor of the National Highway System based on a process established by the Secretary. The process shall require use of quality information and economic and engineering analysis to identify a sequence of maintenance, repair, and rehabilitation actions that will achieve and maintain a desired state of good repair over the lifecycle of the network at the least possible cost.

(B) PERFORMANCE GOALS.—A State asset management plan shall include strategies leading to a program of projects that will make progress toward achievement of the national goals for infrastructure condition and performance of the National Highway System in a manner consistent with the requirements of chapter 52 of title 49.

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

(i) A summary listing of the highway infrastructure assets on the National Highway System in the State that includes current condition and performance statistics by asset.

(ii) Asset management objectives and measures.

(iii) Analysis of lifecycle cost, value for investment, and risk management.

(iv) A financial plan.

(v) Investment strategies.

(D) PROCESS.—Not later than 2 years after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall establish a process by

which a State shall develop and implement a risk-based State asset management plan described in subparagraph (A).

(E) COMPLIANCE.—Notwithstanding section 120, with respect to the second fiscal year beginning after the date of establishment of the process under subparagraph (D) or any subsequent fiscal year, if the Secretary determines that a State has not developed and implemented a State asset management plan in a manner consistent with this section, the Federal share payable on account of any project or activity carried out by the State in that fiscal year under section 119 shall be 70 percent.

* * * * * * *

[§ 104. Apportionment

[(a) ADMINISTRATIVE EXPENSES.—

[(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration—

[(A) $353,024,000 for fiscal year 2005;
[(B) $370,613,540 for fiscal year 2006;
[(C) $389,079,500 for fiscal year 2007;
[(D) $408,465,500 for fiscal year 2008; and
[(E) $423,717,460 for fiscal year 2009.

[(2) PURPOSES.—The funds authorized by this subsection shall be used—

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

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

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

[(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the set-asides authorized by subsections (d) and (f) and section 130(e), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the Interstate and National Highway System program, the Congestion Mitigation and Air Quality Improvement program, the highway safety improvement program, and the Surface Transportation program for that fiscal year, among the several States in the following manner:

[(1) NATIONAL HIGHWAY SYSTEM COMPONENT.—

[(A) IN GENERAL.—For the National Highway System (excluding funds apportioned under paragraph (4)), $40,000,000 for each of fiscal years 2005 and 2006 and $50,000,000 for each of fiscal years 2007 through 2009 for the territorial highway program under section 215, $30,000,000 for each of fiscal years 2005 through 2009 for the Alaska Highway, and the remainder apportioned as follows:

[(i) 25 percent in the ratio that—

[(I) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

[(II) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

[(ii) 35 percent in the ratio that—

[(I) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

[(II) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

[(iii) 30 percent in the ratio that—

[(I) the total diesel fuel used on highways in each State; bears to

[(II) the total diesel fuel used on highways in all States.

[(iv) 10 percent in the ratio that—

[(I) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

[(II) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

[(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A) and paragraph (4), each State shall receive a minimum of 1/2 of 1 percent of the funds apportioned under subparagraph (A) and paragraph (4).

[(2) Congestion mitigation and air quality improvement program.—

[(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

[(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

[(ii) the total of all weighted nonattainment and maintenance area populations in all States.

[(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

[(i) 1.0 if, at the time of apportionment, the area is a maintenance area;

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

[(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under such subpart;

[(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under such subpart;

[(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under such subpart;

[(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under such subpart;

[(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide; or

[(viii) 1.0 if, at the time of apportionment, an area is designated as nonattainment for ozone under subpart 1 of part D of title I of such Act (42 U.S.C. 7512 et seq.).

[(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.

[(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of 1/2 of 1 percent of the funds apportioned under this paragraph.

[(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

[(3) SURFACE TRANSPORTATION PROGRAM.—

[(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

[(i) 25 percent of the apportionments in the ratio that—

[(I) the total lane miles of Federal-aid highways in each State; bears to

[(II) the total lane miles of Federal-aid highways in all States.

[(ii) 40 percent of the apportionments in the ratio that—

[(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

[(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

[(iii) 35 percent of the apportionments in the ratio that—

[(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

[(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

[(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of 1/2 of 1 percent of the funds apportioned under this paragraph.

[(4) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

[(A) 33 1/3 percent in the ratio that—

[(i) the total lane miles on Interstate System routes open to traffic in each State; bears to

[(ii) the total of all such lane miles in all States;

[(B) 33 1/3 percent in the ratio that—

[(i) the total vehicle miles traveled on Interstate System routes open to traffic in each State; bears to

[(ii) the total of all such vehicle miles traveled in all States; and

[(C) 33 1/3 percent in the ratio that—

[(i) the total of each State's annual contributions to the Highway Trust Fund (other than the Mass Transit Account) attributable to commercial vehicles; bears to

[(ii) the total of such annual contributions by all States.

[(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

[(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

[(i) 33⅓ percent of the apportionments in the ratio that—

[(I) the total lane miles of Federal-aid highways in each State; bears to

[(II) the total lane miles of Federal-aid highways in all States.

[(ii) 33⅓ percent of the apportionments in the ratio that—

[(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

[(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

[(iii) 33⅓ percent of the apportionments in the ratio that—

[(I) the number of fatalities on Federal-aid highways in each State in the latest fiscal year for which data are available; bears to

[(II) the number of fatalities on Federal-aid highways in all States in the latest fiscal year for which data are available.

[(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under this paragraph.

[(c) TRANSFERABILITY OF NHS APPORTIONMENTS.—A State may transfer not to exceed 50 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3). A State may transfer not to exceed 100 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3) if the State requests to make such transfer and the Secretary approves such transfer as being in the public interest, after providing notice and sufficient opportunity for public comment. Section 133(d) shall not apply to funds transferred under this subsection.

[(d) OPERATION LIFESAVER AND HIGH SPEED RAIL CORRIDORS.—

[(1) OPERATION LIFESAVER.—To carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings—

[(A) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside $560,000 for such fiscal year; and

[(B) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $560,000 for each of fiscal years 2006 through 2009.

[(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

[(A) FUNDING.—To carry out the elimination of hazards at railway-highway crossings—

[(i) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside $5,250,000 for such fiscal year; and

[(ii) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $7,250,000 for fiscal year 2006, $10,000,000 for fiscal year 2007, $12,500,000 for fiscal year 2008, and $15,000,000 for fiscal year 2009.

[(B) ELIGIBLE CORRIDORS.—Subject to subparagraph (E), funds made available under subparagraph (A) shall be expended for projects in—

[(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause);

[(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D);

[(iii) a Gulf Coast high speed railway corridor (as designated by the Secretary);

[(iv) a Keystone high speed railway corridor from Philadelphia to Harrisburg, Pennsylvania; and

[(v) an Empire State railway corridor from New York City to Albany to Buffalo, New York.

[(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90

miles or more per hour are occurring or can reasonably be expected to occur in the future.

[(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

[(i) projected rail ridership volume in each corridor;

[(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

[(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

[(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

[(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.

[(E) CERTAIN IMPROVEMENTS.—Of such set-aside, not less than $250,000 for fiscal year 2005, $1,000,000 for fiscal year 2006, $1,750,000 for fiscal year 2007, $2,250,000 for fiscal year 2008, and $3,000,000 for fiscal year 2009 shall be available for eligible improvements to the Minneapolis/St. Paul-Chicago segment of the Midwest High Speed Rail Corridor.

[(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each of fiscal years 1999 through 2003 to carry out this subsection.

[(e) CERTIFICATION OF APPORTIONMENTS.—

[(1) IN GENERAL.—On October 1 of each fiscal year the Secretary shall certify to each of the State transportation departments the sums which he has apportioned hereunder to each State for such fiscal year. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized, except that in the case of the Interstate System the Secretary shall advise each State ninety days prior to the apportionment of such funds.

[(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under section 104, 105, or 144 by the 21st day of a fiscal year beginning after September 30, 1998, the Secretary shall transmit, by such 21st day, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written statement of the reason for not making such apportionment in a timely manner.

[(f) METROPOLITAN PLANNING.—

[(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.25 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and

air quality improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.

[(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half percent of the amount apportioned.

[(3) USE OF FUNDS.—

[(A) IN GENERAL.—The funds apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations responsible for carrying out the provisions of section 134 of this title, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas.

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

[(4) DISTRIBUTION OF FUNDS WITHIN STATES.—

[(A) IN GENERAL.—The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable requirements of Federal law.

[(B) REIMBURSEMENT.—Not later than 30 days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

[(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.

[(g) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 130 and 144 may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State transportation department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State

transportation department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State transportation department that the purposes of the program from which such funds are to be transferred have been met. A State may transfer not to exceed 50 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d). Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.

[(h) RECREATIONAL TRAILS PROGRAM.—

[(1) ADMINISTRATIVE COSTS.—Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program $840,000 for each of fiscal years 2005 through 2009. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

[(2) APPORTIONMENT TO THE STATES.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year, among the States in the following manner:

[(A) 50 percent of that amount shall be apportioned equally among eligible States.

[(B) 50 percent of that amount shall be apportioned among eligible States in amounts proportionate to the degree of non-highway recreational fuel use in each of those States during the preceding year.

[(3) ELIGIBLE STATE DEFINED.—In this section, the term "eligible State" means a State that meets the requirements of section 206(c).

[(i) AUDITS OF HIGHWAY TRUST FUND.—From administrative funds made available under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

[(j) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet, for each fiscal year on—

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

[(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section and sections 105 and 144;

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

[(4) the rates of obligation of funds apportioned or set aside under this section and sections 105, 133, and 144, according to—

[(A) program;

[(B) funding category or subcategory;

[(C) type of improvement;

[(D) State; and

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

[(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

[(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

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

[(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the funds transferred under subparagraph (A).

[(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

[(A) IN GENERAL.—Subject to subparagraph (B), funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

[(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to funds transferred under subparagraph (A).

[(3) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

[(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary may, at the request of a State, transfer funds apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding one or more projects that are eligible for assistance with funds so apportioned or allocated.

[(B) APPORTIONMENT.—The transfer shall have no effect on any apportionment of funds to a State under this section or section 105 or 144.

[(C) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(3) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

[(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects that are transferred under this subsection.

[(l) EFFECT OF CERTAIN DELAY IN DEPOSITS INTO HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the application of section 901(e) of the Taxpayer Relief Act of 1997 (111 Stat. 872) shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Transportation Equity Act for the 21st Century and this title.

[§ 105. Equity bonus program

[(a) PROGRAM.—

[(1) IN GENERAL.—Subject to subsections (c) and (d), for each of fiscal years 2005 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

[(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

[(A) the Interstate maintenance program under section 119;

[(B) the national highway system program under section 103;

[(C) the highway bridge program under section 144;

[(D) the surface transportation program under section 133;

[(E) the highway safety improvement program under section 148;

[(F) the congestion mitigation and air quality improvement program under section 149;

[(G) metropolitan planning programs under section 104(f);

[(H) the high priority projects program under section 117;

[(I) the equity bonus program under this section;

[(J) the Appalachian development highway system program under subtitle IV of title 40;

[(K) the recreational trails program under section 206;

[(L) the safe routes to school program under section 1404 of the SAFETEA-LU;

[(M) the rail-highway grade crossing program under section 130; and

[(N) the coordinated border infrastructure program under section 1303 of the SAFETEA-LU.

[(b) STATE PERCENTAGE.—

[(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

[(A) for each of fiscal years 2005 and 2006, 90.5 percent, for fiscal year 2007, 91.5 percent, and for each of fiscal years 2008 and 2009, 92 percent, of the quotient obtained by dividing—

[(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

[(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or (B) for a State with a total population density of less than 40 persons per square mile (as reported in the decennial census conducted by the Federal Government in 2000) and of which at least 1.25 percent of the total acreage is under Federal jurisdiction, based on the report of the General Services Administration entitled "Federal Real Property Profile" and dated September 30, 2004, a State with a total population of less than 1,000,000 (as reported in that decennial census), a State with a median household income of less than $35,000 (as reported in that decennial census), a State with a fatality rate during 2002 on Interstate highways that is greater than one fatality for each 100,000,000 vehicle miles traveled on Interstate highways, or a State with an indexed, State motor fuels excise tax rate higher than 150 percent of the Federal motor fuels excise tax rate as of the date of enactment of the SAFETEA-LU, the greater of—

[(i) the applicable percentage under subparagraph (A); or

[(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

[(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the SAFETEA-LU)—

[(A) the Interstate maintenance program under section 119;

[(B) the national highway system program under section 103;

[(C) the highway bridge program under section 144;

[(D) the surface transportation program under section 133;

[(E) the recreational trails program under section 206;

[(F) the high priority projects program under section 117;

[(G) the minimum guarantee provided under this section;

[(H) revenue aligned budget authority amounts provided under section 110;

[(I) the congestion mitigation and air quality improvement program under section 149;

[(J) the Appalachian development highway system program under subtitle IV of title 40; and

[(K) metropolitan planning programs under section 104(f).

[(c) SPECIAL RULES.—

[(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allo-

cated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than the following percentages of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2):

[(A) For fiscal year 2005, 117 percent.

[(B) For fiscal year 2006, 118 percent.

[(C) For fiscal year 2007, 119 percent.

[(D) For fiscal year 2008, 120 percent.

[(E) For fiscal year 2009, 121 percent.

[(2) NO NEGATIVE ADJUSTMENT.—No negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

[(d) TREATMENT OF FUNDS.—

[(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion the amounts made available under this section that exceed $2,639,000,000 so that the amount apportioned to each State under this paragraph for each program referred to in subparagraphs (A) through (F) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

[(A) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (F) of subsection (a)(2) for a fiscal year; bears to

[(B) the total amount of funds apportioned to such State for all such programs for such fiscal year.

[(2) REMAINING DISTRIBUTION.—The Secretary shall administer the remainder of funds made available under this section to the States in accordance with section 104(b)(3), except that paragraphs (1) through (3) of section 133(d) shall not apply to amounts administered pursuant to this paragraph.

[(e) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

[(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.]

§ 104. Apportionment

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration $400,000,000 for each of fiscal years 2013 through 2016.

(2) PURPOSES.—The funds made available under paragraph (1) shall be used—

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

(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Com-

mission for administrative activities associated with the Appalachian development highway system.

(3) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the set-asides authorized by subsection (f), subsections (b) and (c) of section 140, and section 130(e), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the National Highway System program, the congestion mitigation and air quality improvement program, the surface transportation program, and the highway safety improvement program among the several States in the following manner:

(1) NATIONAL HIGHWAY SYSTEM PROGRAM.—

(A) IN GENERAL.—For the National Highway System program, in accordance with the following formula:

(i) 15 percent of the apportionments in the ratio that—

(I) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

(II) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

(ii) 15 percent of the apportionments in the ratio that—

(I) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

(II) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

(iii) 5 percent of the apportionments in the ratio that—

(I) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

(II) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

(iv) 15 percent of the apportionments in the ratio that—

(I) the total lane miles on Interstate System routes open to traffic in each State; bears to

(II) the total lane miles on Interstate System routes open to traffic in all States.

(v) 15 percent of the apportionments in the ratio that—

(I) the total vehicle miles traveled on Interstate System routes open to traffic in each State; bears to

(II) the total vehicle miles traveled on Interstate System routes open to traffic in all States.

(vi) 35 percent of the apportionments in the ratio that—

(I) the total of the annual contributions to the Highway Trust Fund (other than the Alternative Transportation Account) attributable to commercial vehicles in each State; bears to

(II) the total of the annual contributions to the Highway Trust Fund (other than the Alternative Transportation Account) attributable to commercial vehicles in all States.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of 1/2 of 1 percent of the funds apportioned for a fiscal year under this paragraph.

(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

(ii) the total of all weighted nonattainment and maintenance area populations in all States.

(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

(i) 1.0 if, at the time of the apportionment, the area is a maintenance area;

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

(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under such subpart;

(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under such subpart;

(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under such subpart;

(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under such subpart;

(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide; or

(viii) 1.0 if, at the time of the apportionment, an area is designated as nonattainment for ozone under sub-

part 1 of part D of title I of such Act (42 U.S.C. 7501 et seq.).

(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.

(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of 1/2 of 1 percent of the funds apportioned for a fiscal year under this paragraph.

(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

(3) SURFACE TRANSPORTATION PROGRAM.—

(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

(i) 15 percent of the apportionments in the ratio that—

(I) the total lane miles of Federal-aid highways in each State; bears to

(II) the total lane miles of Federal-aid highways in all States.

(ii) 25 percent of the apportionments in the ratio that—

(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

(iii) 25 percent of the apportionments in the ratio that—

(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Alternative Transportation Account) in the latest fiscal year for which data are available; bears to

(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Alternative Transportation Account) in the latest fiscal year for which data are available.

(iv) 35 percent of the apportionments in the ratio that—

(I) the bridge replacement and rehabilitation costs in each State (as determined under subsection (c)(4)); bears to

(II) the bridge replacement and rehabilitation costs in all States (as determined under subsection (c)(5)).

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned for a fiscal year under this paragraph.

[(4) Reserved.]

(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

(i) 33⅓ percent of the apportionments in the ratio that—

(I) the total lane miles of Federal-aid highways in each State; bears to

(II) the total lane miles of Federal-aid highways in all States.

(ii) 33⅓ percent of the apportionments in the ratio that—

(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

(iii) 33⅓ percent of the apportionments in the ratio that—

(I) the number of fatalities on Federal-aid highways in each State in the latest fiscal year for which data are available; bears to

(II) the number of fatalities on Federal-aid highways in all States in the latest fiscal year for which data are available.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned for a fiscal year under this paragraph.

(c) BRIDGE CALCULATION.—For each fiscal year, the Secretary shall determine the bridge replacement and rehabilitation costs as follows:

(1) The Secretary shall identify deficient highway bridges in each State.

(2) The Secretary shall place each deficient highway bridge into one of the following categories:

(A) Federal-aid highway bridges eligible for replacement.

(B) Federal-aid highway bridges eligible for rehabilitation.

(C) Bridges not on Federal-aid highways eligible for replacement.

(D) Bridges not on Federal-aid highways eligible for rehabilitation.

(3) The Secretary shall determine—

(A) the deck area of deficient highway bridges in each category described in paragraph (2); and

(B) the respective unit price of such deck area on a State-by-State basis.

(4) The Secretary shall determine the bridge replacement and rehabilitation costs for each State by multiplying the deck area of deficient bridges in the State by the respective unit price.

(5) The Secretary shall determine the bridge replacement and rehabilitation costs for all States by multiplying the deck area of deficient bridges in all States by the respective unit price.

(d) CERTIFICATION OF APPORTIONMENTS.—

(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall certify to each of the State transportation departments the sums which the Secretary has apportioned under this section to each State for such fiscal year. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under this section or section 105 by the 21st day of a fiscal year beginning after September 30, 2012, the Secretary shall transmit, by such 21st day, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written statement of the reason for not making such apportionment in a timely manner.

(e) AUDITS OF HIGHWAY TRUST FUND.—From administrative funds made available under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

(f) METROPOLITAN PLANNING.—

(1) SET ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.15 percent of the funds authorized to be appropriated for the National Highway System program and surface transportation program authorized under this title to carry out the requirements of section 5203 of title 49.

(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—Funds set aside under paragraph (1) shall be apportioned to the States in the ratio which the population in urbanized areas, or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than ½ of 1 percent of the amount apportioned.

(3) USE OF FUNDS.—

(A) IN GENERAL.—The funds apportioned to any State under paragraph (2) shall be made available by the State to the metropolitan planning organizations responsible for carrying out the provisions of section 5203 of title 49, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas.

(B) UNUSED FUNDS.—Any funds that are not used to carry out section 5203 of title 49 may be made available by a metropolitan planning organization to the State to fund activities under section 5204 of such title.

(4) DISTRIBUTION OF FUNDS WITHIN STATES.—

(A) IN GENERAL.—The distribution within any State of the planning funds made available to agencies under paragraph (3) shall be in accordance with a formula developed by each State and approved by the Secretary that shall consider, but not necessarily be limited to, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 5203 of title 49 and other applicable requirements of Federal law.

(B) REIMBURSEMENT.—Not later than 30 days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 5203 of title 49, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.

(g) REPORT TO CONGRESS.—For each fiscal year, the Secretary shall submit to Congress, and also make available to the public in a user-friendly format via the Internet, a report on—

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

(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section and section 105;

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

(4) the rates of obligation of funds apportioned or set aside under this section and sections 105 and 133, according to—

(A) program;

(B) funding category or subcategory;

(C) type of improvement;

(D) State; and

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

(h) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

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

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

(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the funds transferred under subparagraph (A).

(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

(A) IN GENERAL.—Subject to subparagraph (B), funds made available under chapter 53 of title 49 for highway

projects or transportation planning may be transferred to and administered by the Secretary in accordance with this title.

(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to funds transferred under subparagraph (A).

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

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary, at the request of a State, may transfer funds apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding one or more projects that are eligible for assistance with funds so apportioned or allocated.

(B) APPORTIONMENT.—A transfer under subparagraph (A) shall have no effect on any apportionment of funds to a State under this section or section 105.

(C) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(3) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects that are transferred under this subsection.

(i) RECREATIONAL TRAILS PROGRAM.—

(1) ADMINISTRATIVE COSTS.—Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program $840,000 for each fiscal year. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

(2) APPORTIONMENT TO THE STATES.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year among eligible States in the following manner:

(A) 50 percent equally among eligible States.

(B) 50 percent in amounts proportionate to the degree of non-highway recreational fuel use in each eligible State during the preceding year.

(3) ELIGIBLE STATE DEFINED.—In this subsection, the term "eligible State" means a State that meets the requirements of section 206(c).

§ 105. Equity bonus program

(a) PROGRAM.—

(1) IN GENERAL.—Subject to subsections (c), (d), and (e), for fiscal year 2013 and each fiscal year thereafter, the Secretary shall apportion among the States amounts sufficient to ensure

that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

(2) SPECIFIED PROGRAMS.—The programs referred to in paragraph (1) are—

(A) the metropolitan planning programs under section 104(f);

(B) the equity bonus program under this section;

(C) the National Highway System program under section 119;

(D) the rail-highway grade crossing program under section 130;

(E) the surface transportation program under section 133;

(F) the highway safety improvement program under section 148;

(G) the recreational trails programs under section 206;

(H) the State infrastructure bank capitalization program under section 611; and

(I) the Appalachian development highway system program under section 14501 of title 40.

(b) STATE PERCENTAGE.—For each of fiscal years 2013 through 2016, the percentage referred to in subsection (a) for each State shall be 94 percent of the quotient obtained by dividing—

(1) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund in the most recent fiscal year for which data are available; by

(2) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund for the fiscal year.

(c) MINIMUM AMOUNT.—

(1) IN GENERAL.—For each fiscal year, before making the apportionments under subsection (a)(1), the Secretary shall apportion among the States amounts sufficient to ensure that each State receives a combined total apportionment for the programs specified in subsection (a)(2) and the congestion mitigation and air quality improvement program under section 149 that equals or exceeds the combined amount that the State was apportioned for fiscal year 2012 for the programs specified in section 105(a)(2) of this title (other than the high priority projects program under subparagraph (H) of such section), as in effect on the day before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012.

(2) SPECIAL RULE.—In determining a State's combined apportionment for fiscal year 2012 for purposes of paragraph (1), the Secretary shall not consider amounts apportioned to the State for such fiscal year under the following:

(A) Section 111(d)(1) of the Surface Transportation Extension Act of 2011, Part II (Public Law 112–30; 125 Stat. 344).

(B) Section 111(d)(3) of the Surface Transportation Extension Act of 2011, Part II (Public Law 112–30; 125 Stat. 345).

(d) NO NEGATIVE ADJUSTMENT.—No negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

(e) TREATMENT OF FUNDS.—

(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion the amounts made available under this section that exceed $2,639,000,000 so that the amount apportioned to each State under this section for each program referred to in subparagraphs (C) and (E) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned to such State under this section by the ratio that—

(A) the amount of funds apportioned to such State for each program referred to in subparagraphs (C) and (E) of subsection (a)(2) for a fiscal year; bears to

(B) the total amount of funds apportioned to such State for all such programs for such fiscal year.

(2) REMAINING DISTRIBUTION.—The Secretary shall administer the remainder of funds made available under this section to the States in accordance with section 133, except that section 133(d)(3) and section 1115(a) of the American Energy and Infrastructure Jobs Act of 2012 shall not apply to the amounts administered pursuant to this paragraph.

(f) METROPOLITAN PLANNING SET-ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), there is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) to carry out this section $3,900,000,000 for each of fiscal years 2013 through 2016.

(2) UPWARD ADJUSTMENT.—If the amount authorized by paragraph (1) for a fiscal year is less than the minimum amount required to ensure that each State receives the minimum percentage of total apportionments required under subsection (a)(1) and the minimum amount required under subsection (c)(1) for the fiscal year—

(A) the amount authorized by paragraph (1) for the fiscal year shall be increased by the amount of the shortfall, so as to equal such minimum amount; and

(B) the amounts authorized by section 1101(a)(2) of the American Energy and Infrastructure Jobs Act of 2012 for the surface transportation program for the fiscal year shall be decreased by the amount of the shortfall.

(3) DOWNWARD ADJUSTMENT.—If the amount authorized by paragraph (1) for a fiscal year is more than the minimum amount required to ensure that each State receives the minimum percentage of total apportionments required under subsection (a)(1) and the minimum amount required under subsection (c)(1) for the fiscal year—

(A) the amount authorized by paragraph (1) for the fiscal year shall be decreased by the amount of the excess, so as to equal such minimum amount; and

(B) the amounts authorized by section 1101(a)(1) of the American Energy and Infrastructure Jobs Act of 2012 for the National Highway System program for the fiscal year shall be increased by the amount of the excess.

§ 106. Project approval and oversight

(a) * * *

* * * * * * *

(c) ASSUMPTION BY STATES OF RESPONSIBILITIES OF THE SECRETARY.—

[(1) NON-INTERSTATE NHS PROJECTS.—For projects under this title that are on the National Highway System but not on the Interstate System, the State may assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections of projects unless the State or the Secretary determines that such assumption is not appropriate.]

(1) NHS PROJECTS.—For projects under this title that are on the National Highway System, including projects on the Interstate System, the State may assume the responsibility of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections with respect to such projects unless the Secretary determines that such assumption is not appropriate.

* * * * * * *

(e) VALUE ENGINEERING ANALYSIS.—

(1) * * *

(2) ANALYSIS.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

(A) each project on the [Federal-aid system] *National Highway System receiving Federal assistance* with an estimated total cost of [$25,000,000] *$50,000,000* or more;

(B) a bridge project *on the National Highway System receiving Federal assistance* with an estimated total cost of [$20,000,000] *$40,000,000* or more; and

* * * * * * *

(5) DESIGN-BUILD PROJECTS.—A requirement to provide a value engineering analysis under this subsection does not apply to a project delivered using the design-build method of construction.

* * * * * * *

(h) MAJOR PROJECTS.—

(1) * * *

* * * * * * *

(3) FINANCIAL PLAN.—A financial plan shall—

(A) be based on detailed estimates of the cost to complete the project; [and]

(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project[.]*; and*

(C) assess the appropriateness of a public-private partnership to deliver the project.

* * * * * * *

(j) USE OF ADVANCED MODELING TECHNOLOGIES.—

(1) IN GENERAL.—With respect to transportation projects that receive Federal funding, the Secretary shall encourage the use of advanced modeling technologies during environmental, planning, financial management, design, simulation, and construction processes related to the projects.

(2) ACTIVITIES.—In carrying out paragraph (1), the Secretary shall—

(A) compile information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies;

(B) disseminate to States information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies; and

(C) promote the use of advanced modeling technologies.

(3) COMPREHENSIVE PLAN.—The Secretary shall develop and publish on the Internet Web site of the Department of Transportation a detailed and comprehensive plan for the implementation of paragraph (1).

(4) ADVANCED MODELING TECHNOLOGY DEFINED.—The term "advanced modeling technology" means an available or developing technology, including 3-dimensional digital modeling, that can accelerate and improve the environmental review process, increase effective public participation, enhance the detail and accuracy of project designs, increase safety, accelerate construction and reduce construction costs, or otherwise expedite project delivery with respect to transportation projects that receive Federal funding.

* * * * * * *

§ 108. Advance acquisition of real property

(a) IN GENERAL.—

(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of [real property] *real property interests* for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of [real property] *real property interests*, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the [real property] *real property interests* shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.

(b) Federal participation in the cost of [rights-of-way] *real property interests* acquired under subsection (a) of this section shall not exceed the Federal pro rata share applicable to the class of funds from which Federal reimbursement is made.

(c) [EARLY ACQUISITION OF RIGHTS-OF-WAY] *STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—*

(1) IN GENERAL.—A State may carry out, at the expense of the State, acquisitions of interests in real property for a project before completion of the review process required for the project

under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project by the State or any Federal agency.

[(1) GENERAL RULE.—Subject to paragraph (2)]

(2) ELIGIBILITY FOR REIMBURSEMENT.—Subject to paragraph (3), funds apportioned to a State under this title may be used to participate in the payment of—

(A) costs incurred by the State for acquisition of [rights-of-way] *real property interests*, acquired in advance of any Federal approval or authorization, if the [rights-of-way] *real property interests* are subsequently incorporated into a project eligible for surface transportation program funds; and

* * * * * * *

[(2)] *(3)* TERMS AND CONDITIONS.—The Federal share payable of the costs described [in paragraph (1)] *in paragraph (2)* shall be eligible for reimbursement out of funds apportioned to a State under this title when the [rights-of-way] *real property interests* acquired are incorporated into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that—

(A) * * *

* * * * * * *

(E) the alternative for which the [right-of-way] *real property interest* is acquired is selected by the State pursuant to regulations to be issued by the Secretary which provide for the consideration of the environmental impacts of various alternatives;

(F) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the [right-of-way] *real property interest* was acquired by the State, and the acquisition has been approved by the Secretary under this Act, and in compliance with section 303 of title 49, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

(G) before the time that the cost incurred by a State is approved for Federal participation, [both the Secretary and the Administrator of the Environmental Protection Agency have concurred] *the Secretary has determined* that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to the need to construct the project, or the selection of the project design or location.

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

(1) IN GENERAL.—The Secretary may authorize the use of Federal funds for the acquisition of a real property interest by a State. For purposes of this subsection, an acquisition of a real property interest includes the acquisition of any interest in land, including the acquisition of a contractual right to acquire

any interest in land, or any other similar action to acquire or preserve rights-of-way for a transportation facility.

(2) STATE CERTIFICATION.—A State requesting Federal funding for an acquisition of a real property interest shall certify in writing that—

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

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

(C) the State acknowledges that early acquisition will not be considered by the Secretary in the environmental assessment of a project, the decision relative to the need to construct a project, or the selection of a project design or location.

(3) ENVIRONMENTAL COMPLIANCE.—Before authorizing Federal funding for an acquisition of a real property interest, the Secretary shall complete for the acquisition the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). For purposes of the review process, the acquisition of a real property interest shall be treated as having independent utility and does not limit consideration of alternatives for future transportation improvements with respect to the real property interest.

(4) PROGRAMMING.—The acquisition of a real property interest for which Federal funding is requested shall be included as a project in an applicable transportation improvement program under sections 5203 and 5204 of title 49. The acquisition project may be included in the transportation improvement program on its own, without including the future construction project for which the real property interest is being acquired. The acquisition project may consist of the acquisition of a specific parcel, a portion of a transportation corridor, or an entire transportation corridor.

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

(e) CONSIDERATION OF LONG-RANGE TRANSPORTATION NEEDS.—The Secretary shall encourage States and other public authorities, if practicable, to acquire transportation real property interests that are sufficient to accommodate long-range transportation needs and, if possible, to do so through the acquisition of broad real property interests that have the capacity for expansion over a 50- to 100-year period and the potential to accommodate one or more transportation modes.

§ 109. Standards

(a) * * *

* * * * * * *

(r) PAVEMENT MARKINGS.—The Secretary may not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead.

(s) UNDERTAKING DESIGN ACTIVITIES BEFORE COMPLETION OF ENVIRONMENTAL REVIEW PROCESS.—

(1) IN GENERAL.—A State may carry out, at the expense of the State, design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals of the project.

(2) ELIGIBILITY FOR REIMBURSEMENT.—Subject to paragraph (3), funds apportioned to a State under this title may be used to participate in the payment of costs incurred by the State for design activities, if the results of the activities are subsequently incorporated (in whole or in substantial part) into a project eligible for surface transportation program funds.

(3) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (2) shall be eligible for reimbursement out of funds apportioned to a State under this title when the design activities are incorporated (in whole or in substantial part) into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that—

(A) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been completed for the project for which the design activities were conducted by the State; and

(B) the design activities conducted pursuant to this subsection did not preclude the consideration of alternatives to the project.

[§ 110. Revenue aligned budget authority

[(a) IN GENERAL.—

[(1) ALLOCATION.—On October 15 of fiscal year 2007 and each fiscal year thereafter, the Secretary shall allocate for such fiscal year and the succeeding fiscal year an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I) (cc)) if the amount determined pursuant to such section for such fiscal year is greater than zero.

[(2) REDUCTION.—If the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I) (cc)) for fiscal year 2007 or any fiscal year thereafter is less than zero, the Secretary on October 15 of such fiscal year shall 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 and the succeeding fiscal year to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) and the motor carrier safety grant program by an aggregate amount equal to the amount determined pursuant to such section. No reduction under this paragraph and no reduction under section 1102(h), and no reduction under title VIII or any amendment made by title VIII, of the SAFETEA-LU shall be made for a fiscal year if, as of October 1 of such fiscal year the

balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.

[(b) GENERAL DISTRIBUTION.—The Secretary shall—

[(1) determine the ratio that—

[(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and the motor carrier safety grant program for which funds are allocated from such Trust Fund by the Secretary under this title, SAFETEA-LU, and subchapter I of chapter 311 of title 49 for a fiscal year, bears to

[(B) the total of all sums authorized to be appropriated from such Trust Fund for such programs for such fiscal year;

[(2) multiply the ratio determined under paragraph (1) by the total amount of funds to be allocated under subsection (a)(1) for such fiscal year;

[(3) allocate the amount determined under paragraph (2) among such programs in the ratio that—

[(A) the sums authorized to be appropriated from such Trust Fund for each of such programs for such fiscal year, bears to

[(B) the sums authorized to be appropriated from such Trust Fund for all such programs for such fiscal year; and

[(4) allocate the remainder of the funds to be allocated under subsection (a)(1) for such fiscal year to the States in the ratio that—

[(A) the total of all funds authorized to be appropriated from such Trust Fund for Federal-aid highway and highway safety construction programs that are apportioned to each State for such fiscal year but for this section, bears to

[(B) the total of all funds authorized to be appropriated from such Trust Fund for such programs that are apportioned to all States for such fiscal year but for this section.

[(c) STATE PROGRAMMATIC DISTRIBUTION.—Of the funds to be apportioned to each State under subsection (b)(4) for a fiscal year, the Secretary shall ensure that such funds are apportioned for the Interstate and National Highway System program, the bridge program, the surface transportation program, the highway safety improvement program, and the congestion mitigation air quality improvement program in the same ratio that each State is apportioned funds for such programs for such fiscal year but for this section.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for fiscal years beginning after September 30, 1998.

[(e) After making any calculation necessary to implement this section for fiscal year 2001, the amount available under paragraph (a)(1) shall be increased by $128,752,000. The amounts added under this subsection shall not apply to any calculation in any other fiscal year.

[(f) For fiscal year 2001, prior to making any distribution under this section, $22,029,000 of the allocation under paragraph (a)(1) shall be available only for each program authorized under chapter 53 of title 49, United States Code, and title III of Public Law 105-178, in proportion to each such program's share of the total authorization in section 5338 (other than 5338(h)) of such title and sections 3037 and 3038 of such Public Law, under the terms and conditions of chapter 53 of such title.

[(g) For fiscal year 2001, prior to making any distribution under this section, $399,000 of the allocation under paragraph (a)(1) shall be available only for motor carrier safety programs under sections 31104 and 31107 of title 49, United States Code; $274,000 for NHTSA operations and research under section 403 of title 23, United States Code; and $787,000 for NHTSA highway traffic safety grants under chapter 4 of title 23, United States Code.]

§ 111. Agreements relating to use of and access to rights-of-way—Interstate System

(a) IN GENERAL.—All agreements between the Secretary and the State transportation department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. Such agreements shall also contain a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System[.] *and will not change the boundary of any right-of-way on the Interstate System to accommodate construction of, or afford access to, an automotive service station or other commercial establishment.* Such agreements may, however, authorize a State or political subdivision thereof to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere in any way with the free flow of traffic on the Interstate System. Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.

(b) REST AREAS.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary shall permit a State to acquire, construct, operate, and maintain a rest area along a highway on the Interstate System in such State.

(2) ELIGIBLE ACTIVITIES.—The Secretary shall permit a rest area under paragraph (1) to include commercial activities that provide goods, services, and information serving the traveling

public and the commercial motor carrier industry. Such commercial activities shall be limited to—

(A) commercial advertising and media displays if such advertising and displays are—

(i) exhibited solely within any facility constructed in the rest area; and

(ii) not legible from the main traveled way;

(B) State promotional or tourism items;

(C) tourism-related merchandise and products, including electronics and clothing;

(D) historical or tourism-related entertainment items, including event or attraction tickets;

(E) travel-related information, including maps, travel booklets, and hotel coupon booklets;

(F) automatic teller machines; and

(G) lottery machines.

(3) PRIVATE OPERATORS.—A State may permit a private party to operate such commercial activities.

(4) LIMITATION ON USE OF REVENUES.—A State shall use any revenues received from the commercial activities in a rest area under this section to cover the costs of acquiring, constructing, operating, and maintaining rest areas in the State.

[(b)] *(c)* VENDING MACHINES.—Notwithstanding subsection (a), any State may permit the placement of vending machines in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in such State. Such vending machines may only dispense such food, drink, and other articles as the State transportation department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the "Randolph-Sheppard Act" (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title.

[(c)] *(d)* MOTORIST CALL BOXES.—

(1) * * *

* * * * * * *

(e) JUSTIFICATION REPORTS.—If the Secretary requests or requires a justification report for a project that would add a point of access to, or exit from, the Interstate System, the Secretary may permit a State transportation department to approve such report.

§ 112. Letting of contracts

(a) * * *

(b) BIDDING REQUIREMENTS.—

[(1) IN GENERAL.—Subject to paragraphs (2) and (3), construction of each project, subject to the provisions of subsection (a) of this section, shall be performed by contract awarded by competitive bidding, unless the State transportation department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid sub-

mitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.**]**

(1) IN GENERAL.—

(A) COMPETITIVE BIDDING REQUIREMENT.—Subject to paragraphs (2), (3), and (4), construction of each project, subject to the provisions of subsection (a), shall be performed by contract awarded by competitive bidding, unless the State transportation department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists.

(B) BASIS OF AWARD.—

(i) IN GENERAL.—Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility.

(ii) PROHIBITION.—No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

* * * * * * *

(3) DESIGN-BUILD CONTRACTING.—

(A) IN GENERAL.—A State transportation department or local transportation agency may award a design-build contract for a qualified project described in **[**subparagraph (C)**]** *subparagraph (B)* using any procurement process permitted by applicable State and local law.

[(B) LIMITATION ON FINAL DESIGN.—Final design under a design-build contract referred to in subparagraph (A) shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).**]**

[(C)**]** *(B)* QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.

[(D)**]** *(C)* REGULATORY PROCESS.—Not later than 90 days after the date of enactment **[**of the SAFETEA-LU**]** *of the American Energy and Infrastructure Jobs Act of 2012*, the Secretary shall issue revised regulations under section 1307(c) of the Transportation Equity Act for 21st Century (23 U.S.C. 112 note; 112 Stat. 230) that—

(i) * * *

(ii) require that the State transportation department or local transportation agency receive concurrence from the Secretary before carrying out an activity under clause (i); **[**and**]**

(iii) preclude the design-build contractor from proceeding with [final design or] construction of any permanent improvement prior to completion of the process under such section 102[.]*; and*

(iv) permit the State transportation department, the local transportation agency, and the design-build contractor to proceed, at the expense of one or more of those entities, with design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project. Design activities carried out under this clause shall be eligible for Federal reimbursement as a project expense in accordance with the requirements under section 109(s).

[(E)] *(D)* DESIGN-BUILD CONTRACT DEFINED.—In this paragraph, the term "design-build contract" means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.

(4) METHOD OF CONTRACTING.—

(A) IN GENERAL.—

(i) TWO-PHASE CONTRACT.—A contracting agency may award a two-phase contract for preconstruction and construction services.

(ii) PRE-CONSTRUCTION SERVICES PHASE.—In the preconstruction services phase, the contractor shall provide the contracting agency with advice for scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.

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

(iv) CONSTRUCTION PHASE.—If an agreement is reached under clause (iii), the contractor shall be responsible for the construction of the project or portion of the project at the negotiated price and other factors specified in regulation.

(B) SELECTION.—A contract shall be awarded to a contractor using a competitive selection process based on qualifications, experience, best value, or any other combination of factors considered appropriate by the contracting agency.

(C) TIMING.—

(i) RELATIONSHIP TO NEPA PROCESS.—Prior to the completion of the process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), a contracting agency may—

(I) issue requests for proposals;

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

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

(ii) PRECONSTRUCTION SERVICES PHASE.—If the preconstruction services phase of a contract under subparagraph (A)(ii) focuses primarily on one alternative, the Secretary shall require that the contract include appropriate provisions to achieve the objectives of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and comply with other applicable Federal laws and regulations.

(iii) CONSTRUCTION SERVICES PHASE.—A contracting agency may not proceed with the award of the construction services phase of a contract under subparagraph (A)(iv) and may not proceed, or permit any consultant or contractor to proceed, with construction until completion of the process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(iv) APPROVAL REQUIREMENT.—Prior to authorizing construction activities, the Secretary shall approve the contracting agency's price estimate for the entire project, as well as any price agreement with the general contractor for the project or a portion of the project.

(v) DESIGN ACTIVITIES.—A contracting agency may proceed, at its expense, with design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project. Design activities carried out under this clause shall be eligible for Federal reimbursement as a project expense in accordance with the requirements under section 109(s).

* * * * * * *

(h) USE OF PATENTED OR PROPRIETARY ITEMS.—The Secretary shall approve the use, by a State, of Federal funds made available to carry out this chapter to pay for patented or proprietary items if the State transportation department certifies, based on the documented analysis and professional judgment of qualified State transportation officials, that—

(1) no equally suitable alternative item exists;

(2) any specified patented or proprietary item will be clearly identified as a patented or proprietary item in bid documents; and

(3) any specified patented or proprietary item will be available in sufficient quantity to complete any project identified in bid documents.

* * * * * * *

§ 114. Construction

(a) * * *

* * * * * * *

(d) VETERANS EMPLOYMENT.—Recipients of Federal financial assistance under this chapter shall ensure that contractors working on a highway project funded using such assistance give preference in the hiring or referral of laborers on any project for the construction of a highway to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not apply to projects subject to section 140(d).

* * * * * * *

§ 116. Maintenance

(a) * * *

* * * * * * *

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

(1) PREVENTIVE MAINTENANCE.—The term "preventive maintenance" includes pavement preservation programs and activities.

(2) PAVEMENT PRESERVATION PROGRAMS AND ACTIVITIES.—The term "pavement preservation programs and activities" means programs and activities employing a network level, long-term strategy that enhances pavement performance by using an integrated, cost-effective set of practices that extend pavement life, improve safety, and meet road user expectations.

[§ 117. High priority projects program

[(a) AUTHORIZATION OF HIGH PRIORITY PROJECTS.—

[(1) IN GENERAL.—The Secretary is authorized to carry out high priority projects with funds made available to carry out the high priority projects program under this section.

[(2) AVAILABILITY OF FUNDS.—

[(A) FOR TEA-21.—Of amounts made available to carry out this section for fiscal years 1998 through 2003, the Secretary, subject to subsection (b), shall make available to carry out each project described in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 257) the amount listed for such project in such section.

[(B) FOR SAFETEA-LU.—Of amounts made available to carry out this section for fiscal years 2005 through 2009, the Secretary, subject to subsection (c), shall make available to carry out each project described in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1256) the amount listed for such project in such section.

[(3) AVAILABILITY OF UNALLOCATED FUNDS.—Any amounts made available to carry out such program that are not allocated for projects described in such section shall be available to the Secretary, subject to subsection (b), to carry out such other high priority projects as the Secretary determines appropriate.

[(b) FOR TEA-21.—For each project to be carried out with funds made available to carry out the high priority projects program under this section for fiscal years 1998 through 2003—

[(1) 11 percent of such amount shall be available for obligation beginning in fiscal year 1998;

[(2) 15 percent of such amount shall be available for obligation beginning in fiscal year 1999;

[(3) 18 percent of such amount shall be available for obligation beginning in fiscal year 2000;

[(4) 18 percent of such amount shall be available for obligation beginning in fiscal year 2001;

[(5) 19 percent of such amount shall be available for obligation beginning in fiscal year 2002; and

[(6) 19 percent of such amount shall be available for obligation beginning in fiscal year 2003.

[(c) FOR SAFETEA-LU.—For each project to be carried out with funds made available to carry out the high priority projects program under this section for fiscal years 2005 through 2009—

[(1) 20 percent of such amount shall be available for obligation beginning in fiscal year 2005;

[(2) 20 percent of such amount shall be available for obligation beginning in fiscal year 2006;

[(3) 20 percent of such amount shall be available for obligation beginning in fiscal year 2007;

[(4) 20 percent of such amount shall be available for obligation beginning in fiscal year 2008; and

[(5) 20 percent of such amount shall be available for obligation beginning in fiscal year 2009.

[(d) FEDERAL SHARE.—The Federal share payable on account of any project carried out with funds made available to carry out this section shall be 80 percent of the total cost thereof; except that the Federal share on account of the project to be carried out under item 1419 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 309), relating to reconstruction of a road and causeway in Shiloh Military Park in Hardin County, Tennessee, shall be 100 percent of the total cost thereof.

[(e) DELEGATION TO STATES.—Subject to the provisions of this title, the Secretary shall delegate responsibility for carrying out a project or projects, with funds made available to carry out this section, to the State in which such project or projects are located upon request of such State.

[(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for a project under this section—

[(1) has obligated all funds allocated under this section and section 1602 of the Transportation Equity Act for the 21st Century or section 1701 of the SAFETEA-LU, as the case may be, for such project; and

[(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the

project when additional funds are allocated for such project under this section and such section 1602 or 1702, as the case may be.

[(g) PERIOD OF AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

[(h) AVAILABILITY OF OBLIGATION LIMITATION.—Obligation authority attributable to funds made available to carry out this section shall only be available for the purposes of this section and shall remain available until obligated pursuant to section 1102(g) of the Transportation Equity Act for the 21st Century or section 1102(g) of the SAFETEA-LU, as the case may be.

[(i) TREATMENT.—Funds allocated to a State in accordance with this section shall be treated as amounts in addition to the amounts a State is apportioned under sections 104, 105, and 144 for programmatic purposes.]

§ 118. Availability of funds

(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the [Mass Transit Account] *Alternative Transportation Account*) to carry out this title*, and amounts made available from the Alternative Transportation Account to carry out the congestion mitigation and air quality improvement program under section 149, the ferry boat and ferry terminal facilities program under section 147, the Puerto Rico highway program under section 165, and the territorial highway program under section 215,* shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

* * * * * * *

[(c) SET ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—

[(1) IN GENERAL.—Before any apportionment is made under section 104(b)(4), the Secretary shall set aside $100,000,000 for each of fiscal years 2005 through 2009 for obligation by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)) and any toll road on the Interstate System not subject to an agreement under section 119(e) (as in effect on December 17, 1991).

[(2) SELECTION CRITERIA.—The amounts set aside under paragraph (1) shall be made available by the Secretary to any State applying for such funds if the Secretary determines that—

[(A) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(4) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System that has been submitted by the State to the Secretary for approval; and

[(B) the applicant is willing and able to—

[(i) obligate the funds within 1 year of the date the funds are made available;

[(ii) apply the funds to a ready-to-commence project; and

[(iii) in the case of construction work, begin work within 90 days after obligation.

[(3) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under paragraph (1), the Secretary shall give priority consideration to any project the cost of which exceeds $10,000,000 on any high volume route in an urban area or a high truck-volume route in a rural area.

[(4) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this subsection shall remain available until expended.]

* * * * * * *

[§ 119. Interstate maintenance program

[(a) IN GENERAL.—

[(1) PROJECTS.—The Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing—

[(A) routes on the Interstate System designated under section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A);

[(B) routes on the Interstate System designated before the date of enactment of the Transportation Equity Act for the 21st Century under subsections (a) and (b) of section 139 (as in effect on the day before the date of enactment of such Act); and

[(C) any segments that become part of the Interstate System under section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991.

[(2) TOLL ROADS.—The Secretary may approve a project pursuant to this subsection on a toll road only if such road is subject to a Secretarial agreement provided for in section 129 or continued in effect by section 1012(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1939) and not voided by the Secretary under section 120(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 159).

[(3) FUNDING.—Sums authorized to be appropriated to carry out this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(4).

[(b) TRANSFER OF INTERSTATE CONSTRUCTION APPORTIONMENTS.—Upon application by a State (other than the State of Massachusetts) and approval by the Secretary, the Secretary may transfer to the apportionments to such State under section 104(b)(1) or 104(b)(4) any amount of the funds apportioned to such State for any fiscal year under section 104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century) if such amount does not exceed the Federal share of the costs of construction of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes) included in the most recent interstate cost estimate. Upon transfer of such amount, the construction on which such amount is based on open-to-traffic segments of the Interstate System in such State as included in the latest interstate cost estimate shall be ineligible and shall not be included in future interstate

cost estimates approved or adjusted under section 104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century).

[(c) TRANSFER OF FUNDS FOR SURFACE TRANSPORTATION PROGRAM PROJECTS.—

[(1) UPON CERTIFICATION ACCEPTANCE.—If a State certifies to the Secretary that any part of the sums apportioned to the State under section 104(b)(4) of this title are in excess of the needs of the State for resurfacing, restoring, or rehabilitating Interstate System routes and the State is adequately maintaining the Interstate System and the Secretary accepts such certification, the State may transfer such excess part to its apportionment under sections 104(b)(1) and 104(b)(3).

[(2) UNCONDITIONAL.—Notwithstanding paragraph (1), a State may transfer to its apportionment under sections 104(b)(1) and 104(b)(3) of this title—

[(A) in fiscal year 1987, an amount not to exceed 20 percent of the funds apportioned to the State under section 104(b)(4) which are not obligated at the time of the transfer; and

[(B) in any fiscal year thereafter, an amount not to exceed 20 percent of the funds apportioned to the State under section 104(b)(4) for such fiscal year.

[(d) LIMITATION ON NEW CAPACITY.—Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.]

§ 119. National Highway System program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a National Highway System program under this section.

(b) PURPOSES.—The purposes of the National Highway System program shall be—

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

(2) to provide support for the construction of new facilities on the National Highway System; and

(3) to ensure that investments of National Highway System program funds are directed to achievement of performance goals established in a State's asset management plan for the National Highway System under section 103(b)(6).

(c) ELIGIBLE FACILITIES.—Except as otherwise specifically provided by this section, to be eligible for funding apportioned under section 104(b)(1) to carry out this section, a facility must be located on the National Highway System.

(d) ELIGIBLE PROJECTS.—Funds apportioned to a State to carry out this section may be obligated only for a project that is—

(1) on an eligible facility, as described in subsection (c);

(2) a project, or is a part of a program of projects, supporting progress toward the achievement of national performance goals under section 5206 of title 49 for improving infrastructure con-

dition, safety, mobility, or freight movement on the National Highway System;

(3) consistent with the requirements of sections 5203 and 5204 of title 49; and

(4) for one or more of the purposes specified in subsection (e).

(e) PROJECT PURPOSES.—A project receiving funding under this section shall be for one or more of the following purposes:

(1) Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvements of segments of the National Highway System.

(2) Construction, reconstruction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, and impact protection measures) of bridges and tunnels on the National Highway System.

(3) Inspection and evaluation, as defined in section 151, of bridges and tunnels on the National Highway System, or inspection and evaluation of other highway infrastructure assets on the National Highway System.

(4) Training of bridge and tunnel inspectors, as defined in section 151.

(5) Rehabilitation or replacement of existing ferry boats and ferry boat facilities, including approaches, that connect road segments of the National Highway System.

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

(7) Capital and operating costs for traffic management and traveler information monitoring, management, and control facilities and programs for the National Highway System.

(8) Infrastructure-based intelligent transportation systems capital improvements for the National Highway System.

(9) Development and implementation of a State asset management plan for the National Highway System in accordance with section 103(b), including data collection, maintenance, and integration and the cost associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management.

(10) Environmental mitigation efforts related to projects funded under this section, as described in subsection (f).

(11) Construction of publicly owned intracity or intercity bus terminals.

(12) Environmental restoration and pollution abatement associated with a project funded under this section in accordance with section 328.

(f) ENVIRONMENTAL MITIGATION.—

(1) ELIGIBLE ACTIVITIES.—Environmental mitigation efforts referred to in subsection (e)(10) include—

(A) participation in mitigation banking or other third-party mitigation arrangements, such as—

(i) the purchase of credits from commercial mitigation banks;

(ii) the establishment and management of agency-sponsored mitigation banks; and

(iii) the purchase of credits or establishment of in-lieu fee mitigation programs;

(B) contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats, wetlands, and other resources; and

(C) the development of statewide and regional environmental protection plans.

(2) INCLUSION OF OTHER ACTIVITIES.—The banks, efforts, and plans described in paragraph (1) include any such banks, efforts, and plans developed in accordance with applicable law (including regulations).

(3) TERMS AND CONDITIONS.—The following terms and conditions apply to natural habitat and wetlands mitigation efforts referred to in subsection (e)(10):

(A) Contributions to the mitigation effort may take place concurrent with, in advance of, or subsequent to the construction of a project or projects.

(B) Credits from any agency-sponsored mitigation bank that are attributable to funding under this section may be used only for projects funded under this title unless the agency pays to the Secretary an amount equal to the Federal funds attributable to the mitigation bank credits the agency uses for purposes other than mitigation of a project funded under this title.

(4) PREFERENCE.—At the discretion of the project sponsor, preference shall be given, to the maximum extent practicable, to mitigating an environmental impact through the use of a mitigation bank or other third-party mitigation arrangement, if the use of credits from the mitigation bank for the project is approved by the applicable Federal agency.

(g) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be determined under section 120(b).

(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be determined under section 120(a).

§ 120. Federal share payable

(a) * * *

* * * * * * *

(e) EMERGENCY RELIEF.—The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title on account of any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on such highway as provided in subsections (a) and (b) of this section; except that (1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the costs thereof; and (2) the Federal share payable on account of any repair or reconstruction of [forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian

reservation roads] *tribal roads and Federal lands highways* may amount to 100 percent of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, "a comparable facility" shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.

* * * * * * *

(j) CREDIT FOR NON-FEDERAL SHARE.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—A State may use as a credit toward the non-Federal share requirement for any funds made available to carry out this title (other than the emergency relief program authorized by section 125 [and the Appalachian development highway system program under section 14501 of title 40]) or chapter 53 of title 49 toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce.

* * * * * * *

(l) USE OF [FEDERAL LANDS HIGHWAYS PROGRAM] *TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM* FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out [the Federal lands highways program under section 204] *the tribal transportation program under section 202 and the Federal lands transportation program under section 203* may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or Indian lands.

* * * * * * *

§ 125. Emergency relief

(a) * * *

* * * * * * *

[(d) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on Federal-aid highways in accordance with the provisions of this chapter: Provided, That (1) obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (e) of this section, resulting from a single natural disaster or a single catastrophic failure in a State shall not exceed $100,000,000, and (2) the total obligations for projects under this section in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed $20,000,000. Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on Federal-aid highways. Except as to highways, roads, and trails mentioned in subsection (e) of this

section, no funds shall be so expended unless the Secretary has received an application therefor from the State transportation department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) concurrence of the Secretary is not required.

[(e) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are Federal-aid highways.]

(d) ELIGIBILITY.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary may expend funds from the emergency fund authorized by this section for the repair or reconstruction of Federal-aid highways in accordance with the provisions of this chapter.

(2) MAXIMUM TOTAL PROJECT COSTS.—

(A) IN GENERAL.—The total cost of a project carried out under this section may not exceed the cost of repair or reconstruction of a comparable facility.

(B) COMPARABLE FACILITY DEFINED.—In this paragraph, the term "comparable facility" means a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life.

(3) DEBRIS REMOVAL.—The costs of debris removal shall be an eligible expense under this section only for—

(A) an event not declared a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(B) an event declared a major disaster or emergency by the President under that Act if the debris removal is not eligible for assistance pursuant to section 403, 407, or 502 of that Act (42 U.S.C. 5170b, 5173, 5192).

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

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

(6) APPLICATIONS; EMERGENCY DECLARATIONS.—Except as to highways, roads, and trails referred to in subsection (e), no funds may be expended under this section unless—

(A) a declaration is made—

(i) by the Governor of the State and concurred in by the Secretary, that an emergency exists; or

(ii) by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists; and

(B) not later than 2 years after a declaration is made under subparagraph (A), the Secretary has received an application for assistance from the State transportation department that includes a comprehensive list of potentially eligible project sites and repair costs.

(e) TRIBAL ROADS, FEDERAL LANDS HIGHWAYS, AND PUBLIC ROADS ON FEDERAL LANDS.—

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

(2) REIMBURSEMENTS.—The Secretary may reimburse Federal agencies, State (including political subdivisions of the States) agencies, and Indian tribal governments for expenditures made on projects determined eligible under this section, including expenditures for emergency repairs made before a determination of eligibility. Such reimbursements to Federal agencies and Indian tribal governments shall be transferred to the account from which the expenditure was made, or to a similar account that remains available for obligation, and the budget authority associated with the expenditure shall be restored to the agency from which it was derived and shall be available for obligation until the end of the fiscal year following the year in which the transfer occurs.

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

* * * * * * *

[§ 126. Uniform transferability of Federal-aid highway funds

[(a) GENERAL RULE.—Notwithstanding any other provision of law but subject to subsections (b) and (c), if at least 50 percent of a State's apportionment under section 104 or 144 for a fiscal year or at least 50 percent of the funds set-aside under section 133(d) from the State's apportionment under section 104(b)(3) may not be transferred to any other apportionment of the State under section 104 or 144 for such fiscal year, then the State may transfer not to exceed 50 percent of such apportionment or set aside to any other apportionment of such State under section 104 or 144 for such fiscal year.

[(b) APPLICATION TO CERTAIN SET-ASIDES.—No funds may be transferred under this section that are subject to the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3). The maximum amount that a State may transfer under this section of the State's set-aside under section 133(d)(1) or 133(d)(2) for a fiscal year may not exceed 25 percent of (1) the amount of such set-aside, less (2) the amount of the State's set-aside under such section for fiscal year 1997.

[(c) APPLICATION TO CERTAIN CMAQ FUNDS.—The maximum amount that a State may transfer under this section of the State's apportionment under section 104(b)(2) for a fiscal year may not exceed 50 percent of (1) the amount of such apportionment, less (2) the amount that the State's apportionment under section 104(b)(2) for such fiscal year would have been had the program been funded at $1,350,000,000. Any such funds apportioned under section 104(b)(2) and transferred under this section may only be obligated in geographic areas eligible for the obligation of funds apportioned under section 104(b)(2).]

§ 126. Uniform transferability of Federal-aid highway funds

(a) GENERAL RULE.—Notwithstanding any other provision of law, but subject to subsection (b), a State may transfer not to exceed 25 percent of the State's apportionment under paragraph (1), (3), or (5) of section 104(b) for a fiscal year to any other apportionment of the State under any of those paragraphs for that fiscal year.

(b) APPLICATION TO CERTAIN SET-ASIDES.—No funds may be transferred under this section that are subject to section 104(f) or section 133(d)(3).

§ 127. Vehicle weight limitations—Interstate System

(a) IN GENERAL.—

(1) * * *

* * * * * * *

(12) HEAVY DUTY VEHICLES.—

(A) * * *

(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than [400] *550* pounds.

(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

(i) * * *

(ii) the [400-pound] *550-pound* gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).

(13) PILOT PROGRAM.—

(A) IN GENERAL.—The Secretary may carry out a pilot program under which the Secretary may authorize up to 3 States to allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 126,000 pounds on segments on the Interstate System in the State.

(B) REQUIREMENTS.—A State authorized under the pilot program under subparagraph (A) shall—

(i) identify and submit to the Secretary for approval the segments on the Interstate System to be subject to the program and the configurations of vehicles to be allowed to operate under a special permit;

(ii) allow vehicles subject to the program to operate on not more than 3 segments, which may be contiguous, of up to 25 miles each;

(iii) require the loads of vehicles operating under a special permit to conform to such single axle, tandem axle, tridem axle, and bridge formula limits applicable in the State; and

(iv) establish and collect a fee for vehicles operating under a special permit.

(C) PROHIBITIONS.—The Secretary may prohibit the operation of a vehicle under a special permit if the Secretary determines that the operation poses an unreasonable safety risk based on an analysis of engineering data, safety data, or other applicable data.

(D) DURATION.—The Secretary may authorize a State under the pilot program under subparagraph (A) for a period not to exceed 4 years.

* * * * * * *

(i) SPECIAL PERMITS DURING PERIODS OF EMERGENCY.—

(1) IN GENERAL.—A State may issue special permits with respect to a major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to overweight vehicles and loads that can be easily dismantled or divided allowing operations on the Interstate System that would otherwise be prohibited under subsection (a), if—

(A) the permits are issued in accordance with State law; and

(B) the permits are issued exclusively to vehicles and loads that are delivering relief supplies in response to the major disaster or emergency.

(2) EXPIRATION.—A permit issued with respect to a major disaster or emergency under paragraph (1) shall expire not later than 120 days after the date of the declaration of the major disaster or emergency as described in paragraph (1).

(j) EMERGENCY VEHICLES.—

(1) IN GENERAL.—Notwithstanding subsection (a), a State may not enforce against an emergency vehicle a weight limit of—

(A) less than 24,000 pounds on a single steering axle;

(B) less than 33,500 pounds on a single drive axle;

(C) less than 62,000 pounds on a tandem axle; or

(D) less than 52,000 pounds on a tandem rear drive steer axle, up to a maximum gross vehicle weight of 86,000 pounds.

(2) EMERGENCY VEHICLE DEFINED.—In this subsection, the term "emergency vehicle" means a vehicle designed to be used under emergency conditions—

(A) to transport personnel and equipment; and

(B) to support the suppression of fires or mitigation of other hazardous situations.

* * * * * * *

§ 129. Toll roads, bridges, tunnels, and ferries

[(a) BASIC PROGRAM.—

[(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Notwithstanding section 301 of this title and subject to the provisions of this section, the Secretary shall permit Federal participation in—

[(A) initial construction of a toll highway, bridge, or tunnel (other than a highway, bridge, or tunnel on the Interstate System) or approach thereto;

[(B) reconstructing, resurfacing, restoring, and rehabilitating a toll highway, bridge, or tunnel (including a toll highway, bridge, or tunnel subject to an agreement entered into under this section or section 119(e) as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991) or approach thereto;

[(C) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

[(D) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility; and

[(E) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under subparagraph (A), (B), (C), or (D);

on the same basis and in the same manner as in the construction of free highways under this chapter.

[(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach thereto constructed under this subsection must—

[(A) be publicly owned, or

[(B) be privately owned if the public authority having jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with a private person or persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

[(3) LIMITATIONS ON USE OF REVENUES.—Before the Secretary may permit Federal participation under this subsection in construction of a highway, bridge, or tunnel located in a State, the public authority (including the State transportation department) having jurisdiction over the highway, bridge, or tunnel must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the toll facility will be used first for debt service, for reasonable return on investment of any private person financing the project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation. If the State certifies annually that the tolled facility is being adequately maintained, the State may use any toll revenues in excess of amounts re-

quired under the preceding sentence for any purpose for which Federal funds may be obligated by a State under this title.

[(4) SPECIAL RULE FOR FUNDING.—In the case of a toll highway, bridge, or tunnel under the jurisdiction of a public authority of a State (other than the State transportation department), upon request of the State transportation department and subject to such terms and conditions as such department and public authority may agree, the Secretary shall reimburse such public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as such department would be reimbursed if such project was being carried out by such department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in such State on which the project is being carried out.

[(5) LIMITATION ON FEDERAL SHARE.—The Federal share payable for a project described in paragraph (1) shall be a percentage determined by the State but not to exceed 80 percent.

[(6) MODIFICATIONS.—If a public authority (including a State transportation department) having jurisdiction over a toll highway, bridge, or tunnel subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991, requests modification of such agreement, the Secretary shall modify such agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

[(7) LOANS.—

[(A) IN GENERAL.—A State may loan to a public or private entity constructing or proposing to construct under this section a toll facility or non-toll facility with a dedicated revenue source an amount equal to all or part of the Federal share of the cost of the project if the project has a revenue source specifically dedicated to it. Dedicated revenue sources for non-toll facilities include excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, and such other dedicated revenue sources as the Secretary determines appropriate.

[(B) COMPLIANCE WITH FEDERAL LAWS.—As a condition of receiving a loan under this paragraph, the public or private entity that receives the loan shall ensure that the project will be carried out in accordance with this title and any other applicable Federal law, including any applicable provision of a Federal environmental law.

[(C) SUBORDINATION OF DEBT.—The amount of any loan received for a project under this paragraph may be subordinated to any other debt financing for the project.

[(D) OBLIGATION OF FUNDS LOANED.—Funds loaned under this paragraph may only be obligated for projects under this paragraph.

[(E) REPAYMENT.—The repayment of a loan made under this paragraph shall commence not later than 5 years after

date on which the facility that is the subject of the loan is open to traffic.

[(F) TERM OF LOAN.—The term of a loan made under this paragraph shall not exceed 30 years from the date on which the loan funds are obligated.

[(G) INTEREST.—A loan made under this paragraph shall bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible.

[(H) REUSE OF FUNDS.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

[(i) for any purpose for which the loan funds were available under this title; and

[(ii) for the purchase of insurance or for use as a capital reserve for other forms of credit enhancement for project debt in order to improve credit market access or to lower interest rates for projects eligible for assistance under this title.

[(I) GUIDELINES.—The Secretary shall establish procedures and guidelines for making loans under this paragraph.

[(8) INITIAL CONSTRUCTION DEFINED.—For purposes of this subsection, the term "initial construction" means the construction of a highway, bridge, or tunnel at any time before it is open to traffic and does not include any improvement to a highway, bridge, or tunnel after it is open to traffic.]

(a) BASIC PROGRAM.—

(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the provisions of this section, Federal participation shall be permitted on the same basis and in the same manner as construction of toll-free highways is permitted under this chapter in the—

(A) initial construction of a toll highway, bridge, or tunnel or approach thereto;

(B) initial construction of one or more lanes or other improvements that increase capacity of a highway, bridge, or tunnel (other than a highway on the Interstate System) and conversion of that highway, bridge, or tunnel to a tolled facility;

(C) initial construction of one or more lanes or other improvements that increase the capacity of a highway, bridge, or tunnel on the Interstate System and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction;

(D) reconstruction, resurfacing, restoration, rehabilitation, or replacement of a toll highway, bridge, or tunnel or approach thereto;

(E) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

(F) reconstruction, restoration, or rehabilitation of a toll-free Federal-aid highway (other than a highway on the

Interstate System) and conversion of the highway to a toll facility;

(G) reconstruction, restoration, or rehabilitation of a highway on the Interstate System if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after reconstruction, restoration, or rehabilitation is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before reconstruction, restoration or rehabilitation;

(H) conversion of a high occupancy vehicle lane on a highway, bridge, or tunnel to a toll facility; and

(I) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under this paragraph.

(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach thereto constructed under this subsection must—

(A) be publicly owned; or

(B) be privately owned if the public authority with jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with a private person or persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

(3) LIMITATIONS ON USE OF REVENUES.—

(A) IN GENERAL.—A public authority with jurisdiction over a toll facility shall use all toll revenues received from operation of the toll facility only for—

(i) debt service with respect to the projects on or for which the tolls are authorized, including funding of reasonable reserves and debt service on refinancing;

(ii) reasonable return on investment of any private person financing the project, as determined by the State or interstate compact of States concerned;

(iii) any costs necessary for the improvement and proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation;

(iv) if the toll facility is subject to a public-private partnership agreement, payments that the party holding the right to toll revenues owes to the other party under the public-private partnership agreement; and

(v) if the public authority certifies annually that the tolled facility is being adequately maintained, the public authority may use toll revenues for any other purpose for which Federal funds may be obligated by a State under this title.

(B) ANNUAL AUDIT.—A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of such audits to the Secretary. Upon reasonable notice, the public authority shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.

(C) NONCOMPLIANCE.—If the Secretary concludes that a public authority has not complied with the limitations on the use of revenues described in subparagraph (A), the Secretary may require the public authority to discontinue collecting tolls until an agreement with the Secretary is reached to achieve compliance with the limitation on the use of revenues described in subparagraph (A).

(4) LIMITATIONS ON CONVERSION OF HIGH OCCUPANCY VEHICLE FACILITIES ON INTERSTATE SYSTEM.—

(A) IN GENERAL.—A public authority with jurisdiction over a high occupancy vehicle facility on the Interstate System may undertake reconstruction, restoration, or rehabilitation under subsection (a)(1)(G) on the facility, and may levy tolls on vehicles, excluding high occupancy vehicles, using the reconstructed, restored, or rehabilitated facility, if the public authority—

(i) in the case of a high occupancy vehicle facility that affects a metropolitan area, submits to the Secretary a written assurance that the metropolitan planning organization designated under section 5203 of title 49 for the area has been consulted concerning the placement and amount of tolls on the converted facility;

(ii) develops, manages, and maintains a system that will automatically collect the toll; and

(iii) establishes policies and procedures to—

(I) manage the demand to use the facility by varying the toll amount that is charged; and

(II) enforce sanctions for violations of use of the facility.

(B) EXEMPTION FROM TOLLS.—In levying tolls on a facility under subparagraph (A), a public authority may designate classes of vehicles that are exempt from the tolls or charge different toll rates for different classes of vehicles.

(5) SPECIAL RULE FOR FUNDING.—In the case of a toll facility under the jurisdiction of a public authority of a State (other than the State transportation department), upon request of the State transportation department and subject to such terms and conditions as such department and public authority may agree, the Secretary, working through the State department of transportation, shall reimburse such public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as such department would be reimbursed if such project was being carried out by such department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in such State on which the project is being carried out.

(6) LIMITATION ON FEDERAL SHARE.—The Federal share payable for a project described in paragraph (1) shall be a percentage determined by the State but not to exceed 80 percent.

(7) MODIFICATIONS.—If a public authority (including a State transportation department) with jurisdiction over a toll facility subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Inter-

modal Surface Transportation Efficiency Act of 1991, requests modification of such agreement, the Secretary shall modify such agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

(8) LOANS.—

(A) IN GENERAL.—Using amounts made available under this title, a State may loan to a public or private entity constructing or proposing to construct under this section a toll facility or non-toll facility with a dedicated revenue source an amount equal to all or part of the Federal share of the cost of the project if the project has a revenue source specifically dedicated to it. Dedicated revenue sources for non-toll facilities include excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, and such other dedicated revenue sources as the Secretary determines appropriate.

(B) COMPLIANCE WITH FEDERAL LAWS.—As a condition of receiving a loan under this paragraph, the public or private entity that receives the loan shall ensure that the project will be carried out in accordance with this title and any other applicable Federal law, including any applicable provision of a Federal environmental law.

(C) SUBORDINATION OF DEBT.—The amount of any loan received for a project under this paragraph may be subordinated to any other debt financing for the project.

(D) OBLIGATION OF FUNDS LOANED.—Funds loaned under this paragraph may only be obligated for projects under this paragraph.

(E) REPAYMENT.—The repayment of a loan made under this paragraph shall commence not later than 5 years after date on which the facility that is the subject of the loan is open to traffic.

(F) TERM OF LOAN.—The term of a loan made under this paragraph shall not exceed 30 years from the date on which the loan funds are obligated.

(G) INTEREST.—A loan made under this paragraph shall bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible.

(H) REUSE OF FUNDS.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

(i) for any purpose for which the loan funds were available under this title; and

(ii) for the purchase of insurance or for use as a capital reserve for other forms of credit enhancement for project debt in order to improve credit market access or to lower interest rates for projects eligible for assistance under this title.

(I) GUIDELINES.—The Secretary shall establish procedures and guidelines for making loans under this paragraph.

(9) STATE LAW PERMITTING TOLLING.—If a State does not have a highway, bridge, or tunnel toll facility as of the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, before commencing any activity authorized under this

section, the State must have in effect a law that permits tolling on a highway, bridge, or tunnel.

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

(A) HIGH OCCUPANCY VEHICLE; HOV.—The term "high occupancy vehicle" or "HOV" means a vehicle with no fewer than 2 occupants.

(B) INITIAL CONSTRUCTION.—The term "initial construction" means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic and does not include any improvement to a highway, bridge, tunnel, or other facility after it is open to traffic.

(C) PUBLIC AUTHORITY.—The term "public authority" means a State, interstate compact of States, or public entity designated by a State.

(D) TOLL FACILITY.—The term "toll facility" means a toll highway, bridge, or tunnel or approach thereto constructed under this subsection.

* * * * * * *

§ 130. Railway-highway crossings

(a) * * *

* * * * * * *

(d) SURVEY AND SCHEDULE OF PROJECTS.—Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railway-highway crossings. *Each State shall make the surveys conducted and schedules implemented under this subsection available to the public on an appropriate Internet Web site of the State.*

* * * * * * *

(m) RAILWAY-HIGHWAY CROSSING INFORMATION.—

(1) PRIORITY LISTS AND ACTION PLANS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, each State shall compile and submit to the Secretary a report that includes—

(i) a list of the 10 railway-highway crossings in the State that have the greatest need for safety improvements;

(ii) an action plan that identifies projects and activities the State plans to carry out to improve safety at those railway-highway crossings; and

(iii) a list of projects and activities the State carried out to improve safety at those railway-highway crossings during the 2-year period ending on the date on which the report is submitted to the Secretary.

(B) UPDATES.—Each State shall update and submit to the Secretary, at least once every 2 years, the report of that State under subparagraph (A).

(2) PUBLICATION OF REPORTS ON U.S. DOT WEB SITE.—The Secretary shall make the reports submitted under paragraph (1)

available to the public on the Internet Web site of the Department of Transportation.

(3) PUBLICATION OF REPORTS ON STATE WEB SITES.—Each State shall make the reports compiled under paragraph (1) available to the public on an appropriate Internet Web site of the State.

(4) LIMITATION ON USE OF DATA IN JUDICIAL PROCEEDINGS.—Notwithstanding any other provision of law, any report, review, survey, schedule, list, data, information, or document of any kind compiled or collected pursuant to this subsection, including for the purpose of identifying, evaluating, or planning the safety enhancement of a potential accident site or railway-highway crossing pursuant to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such report, review, survey, schedule, list, data, information, or document.

(5) NONCOMPLIANCE.—If the Secretary determines that a State is not in compliance with requirements under this subsection, the Secretary may withhold funding that would otherwise be apportioned to that State under this section.

§ 131. Control of outdoor advertising

(a) * * *

* * * * * * *

(i) In order to provide information in the specific interest of the traveling public, the State transportation departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system. *A State may permit the installation of signs that acknowledge the sponsorship of rest areas within such rest areas or along the main traveled way of the system, provided that such signs shall not affect the safe and efficient utilization of the Interstate System and the primary system. The Secretary shall establish criteria for the installation of such signs on the main traveled way, including criteria pertaining to the placement of rest area sponsorship acknowledgment signs in relation to the placement of advance guide signs for rest areas.*

* * * * * * *

§ 133. Surface transportation program

(a) * * *

(b) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

[(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title.]

(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, and operational improvements for highways, including construction of designated routes of the Appalachian Development Highway System.

(2) Replacement (including replacement with fill material), rehabilitation, preservation, and protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges and tunnels on public roads of all functional classifications.

(3) Construction of a new bridge or tunnel at a new location on a Federal-aid highway.

(4) Inspection and evaluation of bridges and tunnels and training of bridge and tunnel inspectors (as defined in section 151), and inspection and evaluation of other highway assets (including signs, retaining walls, and drainage structures).

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

[(3)] *(6)* Carpool projects, fringe and corridor parking facilities and programs, bicycle transportation and pedestrian walkways in accordance with section 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

[(4)] *(7)* Highway and transit safety infrastructure improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.

[(5)] *(8)* Highway and transit research and development and technology transfer programs.

[(6)] *(9)* Capital and operating costs for traffic monitoring, management, and control facilities and programs, including advanced truck stop electrification systems.

[(7)] *(10)* Surface transportation planning programs.

[(8)] *(11)* Transportation enhancement activities.

[(9)] *(12)* Transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).

[(10)] *(13)* Development and establishment of management systems under section 303.

[(11) In accordance with all applicable Federal law and regulations, participation in natural habitat and wetlands mitiga-

tion efforts related to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands; and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).**]**

(14) Environmental mitigation efforts relating to projects funded under this title in the same manner and to the same extent as such activities are eligible under section 119(f).

[(12)**]** *(15)* Projects relating to intersections that—

(A) * * *

* * * * * * *

[(13)**]** *(16)* Infrastructure-based intelligent transportation systems capital improvements.

[(14)**]** *(17)* Environmental restoration and pollution abatement in accordance with section 328.

[(15) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.**]**

[(c) LOCATION OF PROJECTS.—Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b)(3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.**]**

(c) LOCATION OF PROJECTS.—Except for projects described in subsections (b)(2), (b)(6), and (b)(7), surface transportation program projects may not be undertaken on roads functionally classified as local or rural minor collectors unless the roads were on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.

(d) ALLOCATIONS OF APPORTIONED FUNDS.—

(1) * * *

[(2) FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the

State for fiscal year 2005, shall only be available for transportation enhancement activities.]

(3) DIVISION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION AND OTHER AREAS.—

(A) GENERAL RULE.—Except as provided in subparagraph (C), [62.5 percent of the remaining 90 percent] *50 percent* of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall be obligated under this section—

(i) * * *

* * * * * * *

in proportion to their relative share of the State's population. The remaining [37.5 percent] *50 percent* may be obligated in any area of the State. Funds attributed to an urbanized area under clause (i) may be obligated in the metropolitan area established under section 134 which encompasses the urbanized area.

* * * * * * *

(E) CONSULTATION WITH RURAL PLANNING ORGANIZATIONS.—For purposes of subparagraph (A)(ii), before obligating funding attributed to an area with a population greater than 5,000 and less than 200,000, a State shall consult with the rural planning organizations that represent the area, if any.

* * * * * * *

(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity [funded from the allocation required under paragraph (2)], if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

* * * * * * *

(e) ADMINISTRATION.—

(1) * * *

* * * * * * *

[(3) PAYMENTS.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary.

[(B) ADVANCE PAYMENT OPTION FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—

[(i) IN GENERAL.—The Secretary may advance funds to the State for transportation enhancement activities

funded from the allocation required by subsection (d)(2) for a fiscal year.

[(ii) LIMITATION ON AMOUNTS.—Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

[(iii) EFFECT ON OTHER REQUIREMENTS.—This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program.]

(3) PAYMENTS.—The Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary.

* * * * * * *

(f) OBLIGATION AUTHORITY.—

(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the period of fiscal years [2004 through 2006] *2011 through 2013* and the period of fiscal years [2007 through 2009] *2014 through 2016* an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

(A) * * *

* * * * * * *

[§ 134. Metropolitan transportation planning

[(a) POLICY.—It is in the national interest to—

[(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

[(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

[(b) DEFINITIONS.—In this section and section 135, the following definitions apply:

[(1) METROPOLITAN PLANNING AREA.—The term "metropolitan planning area" means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

[(2) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" means the policy board of

an organization created as a result of the designation process in subsection (d).

[(3) NONMETROPOLITAN AREA.—The term "nonmetropolitan area" means a geographic area outside designated metropolitan planning areas.

[(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term "nonmetropolitan local official" means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

[(5) TIP.—The term "TIP" means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

[(6) URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

[(c) GENERAL REQUIREMENTS.—

[(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long- range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

[(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

[(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

[(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

[(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

[(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

[(B) in accordance with procedures established by applicable State or local law.

[(2) STRUCTURE.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

[(A) local elected officials;

[(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

[(C) appropriate State officials.

[(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

[(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and

[(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

[(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

[(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

[(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

[(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

[(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

[(2) INCLUDED AREA.—Each metropolitan planning area—

[(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

[(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

[(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

[(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or

carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA-LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

[(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA-LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

[(A) shall be established in the manner described in subsection (d)(1);

[(B) shall encompass the areas described in paragraph (2)(A);

[(C) may encompass the areas described in paragraph (2)(B); and

[(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

[(f) COORDINATION IN MULTISTATE AREAS.—

[(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

[(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any two or more States—

[(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

[(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

[(3) LAKE TAHOE REGION.—

[(A) DEFINITION.—In this paragraph, the term "Lake Tahoe region" has the meaning given the term "region" in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

[(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

[(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

[(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 135.

[(C) INTERSTATE COMPACT.—

[(i) IN GENERAL.—Subject to clause (ii), and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent

of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

[(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

[(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

[(II) FUNDING.—For fiscal year 2008 and each fiscal year thereafter, in addition to other funds made available to the metropolitan planning organization for the Lake Tahoe region under this title and chapter 53 of title 49, prior to any allocation under section 202 of this title and notwithstanding the allocation provisions of section 202, the Secretary shall set aside ½ of 1 percent of all funds authorized to be appropriated for such fiscal year to carry out section 204 and shall make such funds available to the metropolitan planning organization for the Lake Tahoe region to carry out the transportation planning process, environmental reviews, preliminary engineering, and design to complete environmental documentation for transportation projects for the Lake Tahoe region under the Tahoe Regional Planning Compact as consented to in Public Law 96-551 (94 Stat. 3233) and this paragraph.

[(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

[(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

[(ii) may, in accordance with chapter 2, be funded using funds allocated under section 202.

[(4) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

[(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

[(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such

area and the State in the coordination of plans and TIPs required by this section.

[(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of title 49, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

[(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

[(A) recipients of assistance under chapter 53 of title 49;

[(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

[(C) recipients of assistance under section 204.

[(h) SCOPE OF PLANNING PROCESS.—

[(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

[(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

[(B) increase the safety of the transportation system for motorized and nonmotorized users;

[(C) increase the security of the transportation system for motorized and nonmotorized users;

[(D) increase the accessibility and mobility of people and for freight;

[(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

[(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

[(G) promote efficient system management and operation; and

[(H) emphasize the preservation of the existing transportation system.

[(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

[(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

[(1) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

[(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

[(B) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

[(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

[(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as such factors relate to a 20-year forecast period.

[(B) MITIGATION ACTIVITIES.—

[(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

[(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

[(C) FINANCIAL PLAN.—A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional fi-

nancing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

[(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

[(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

[(F) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

[(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization 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.

[(4) CONSULTATION.—

[(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

[(B) ISSUES.—The consultation shall involve, as appropriate—

[(i) comparison of transportation plans with State conservation plans or maps, if available; or

[(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

[(5) PARTICIPATION BY INTERESTED PARTIES.—

[(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

[(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

[(i) shall be developed in consultation with all interested parties; and

[(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

[(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

[(i) hold any public meetings at convenient and accessible locations and times;

[(ii) employ visualization techniques to describe plans; and

[(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

[(6) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

[(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

[(j) METROPOLITAN TIP.—

[(1) DEVELOPMENT.—

[(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.

[(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

[(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

[(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

[(2) CONTENTS.—

[(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to

be carried out within each 4-year period after the initial adoption of the TIP.

[(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

[(i) demonstrates how the TIP can be implemented;

[(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

[(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

[(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

[(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

[(3) INCLUDED PROJECTS.—

[(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

[(B) PROJECTS UNDER CHAPTER 2.—

[(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

[(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

[(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

[(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

[(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

[(5) SELECTION OF PROJECTS.—

[(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

[(i) by—

[(I) in the case of projects under this title, the State; and

[(II) in the case of projects under chapter 53 of title 49, the designated recipients of public transportation funding; and

[(ii) in cooperation with the metropolitan planning organization.

[(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

[(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

[(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

[(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

[(7) PUBLICATION.—

[(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

[(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

[(k) TRANSPORTATION MANAGEMENT AREAS.—

[(1) IDENTIFICATION AND DESIGNATION.—

[(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

[(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

[(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

[(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

[(4) SELECTION OF PROJECTS.—

[(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under this title (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

[(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under this title shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

[(5) CERTIFICATION.—

[(A) IN GENERAL.—The Secretary shall—

[(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

[(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

[(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

[(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

[(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

[(C) EFFECT OF FAILURE TO CERTIFY.—

[(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning

organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

[(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

[(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

[(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—

[(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

[(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

[(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

[(1) IN GENERAL.—Notwithstanding any other provisions of this title or chapter 53 of title 49, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

[(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

[(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.

[(o) FUNDING.—Funds set aside under section 104(f) of this title or section 5305(g) of title 49 shall be available to carry out this section.

[(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1,

1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.

[§ 135. Statewide transportation planning

[(a) GENERAL REQUIREMENTS.—

[(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 134.

[(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

[(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 134(a), and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

[(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

[(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 134 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

[(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

[(c) INTERSTATE AGREEMENTS.—

[(1) IN GENERAL.—The consent of Congress is granted to two or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

[(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

[(d) SCOPE OF PLANNING PROCESS.—

[(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

[(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas,

especially by enabling global competitiveness, productivity, and efficiency;

[(B) increase the safety of the transportation system for motorized and nonmotorized users;

[(C) increase the security of the transportation system for motorized and nonmotorized users;

[(D) increase the accessibility and mobility of people and freight;

[(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

[(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

[(G) promote efficient system management and operation; and

[(H) emphasize the preservation of the existing transportation system.

[(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.

[(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

[(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

[(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

[(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

[(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

[(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

[(2) CONSULTATION WITH GOVERNMENTS.—

[(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

[(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Sec-

retary shall not review or approve the consultation process in each State.

[(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

[(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

[(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

[(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

[(3) PARTICIPATION BY INTERESTED PARTIES.—

[(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan.

[(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

[(i) hold any public meetings at convenient and accessible locations and times;

[(ii) employ visualization techniques to describe plans; and

[(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

[(4) MITIGATION ACTIVITIES.—

[(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

[(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

[(5) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopt-

ed statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

[(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

[(7) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

[(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

[(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

[(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

[(2) CONSULTATION WITH GOVERNMENTS.—

[(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

[(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

[(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

[(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

[(4) INCLUDED PROJECTS.—

[(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

[(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

[(C) PROJECTS UNDER CHAPTER 2.—

[(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

[(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

[(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

[(i) consistent with the statewide transportation plan developed under this section for the State;

[(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

[(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under such Act.

[(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a 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.

[(F) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

[(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

[(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to se-

lect any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

[(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

[(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title and chapter 53 of title 49.

[(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

[(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

[(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 134.

[(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

[(h) FUNDING.—Funds set aside pursuant to section 104(f) of this title and section 5305(g) of title 49, shall be available to carry out this section.

[(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 134, and sections 5303 and 5304 of title 49, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 134, and sections 5303 and 5304 of title 49, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this sec-

tion and section 134 and sections 5303 and 5304 of title 49, as appropriate.

[(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.

[§ 136. Control of junkyards

[(a) The Congress hereby finds and declares that the establishment and use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

[(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the establishment and maintenance along the Interstate System and the primary system of outdoor junkyards, which are within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

[(c) Effective control means that by January 1, 1968, such junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the system, or shall be removed from sight.

[(d) The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

[(e) The term "automobile graveyard" shall mean any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

[(f) The term "junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

[(g) Notwithstanding any provision of this section, junkyards, auto graveyards, and scrap metal processing facilities may be operated within areas adjacent to the Interstate System and the primary system which are within one thousand feet of the nearest edge of the right-of-way and which are zoned industrial under authority of State law, or which are not zoned under authority of State law, but are used for industrial activities, as determined by the several States subject to approval by the Secretary.

[(h) Notwithstanding any provision of this section, any junkyard in existence on the date of enactment of this section which does not conform to the requirements of this section and which the Secretary finds as a practical matter cannot be screened, shall not be required to be removed until July 1, 1970.

[(i) The Federal share of landscaping and screening costs under this section shall be 75 per centum.

[(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully established under State law. The Federal share of such compensation shall be 75 per centum.

[(k) All public lands or reservations of the United States which are adjacent to any portion of the interstate and primary systems shall be effectively controlled in accordance with the provisions of this section.

[(l) Nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to outdoor junkyards on the Federal-aid highway systems than those established under this section.

[(m) There is authorized to be appropriated to carry out this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $3,000,000 for the fiscal year ending June 30, 1970, not to exceed $3,000,000 for the fiscal year ending June 30, 1971, not to exceed $3,000,000 for the fiscal year ending June 30, 1972, and not to exceed $5,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.]

§ 134. Metropolitan transportation planning

Metropolitan transportation planning programs funded under section 104(f) shall be carried out in accordance with the metropolitan planning provisions of section 5203 of title 49.

§ 135. Statewide transportation planning

Statewide transportation planning programs funded under sections 104(f) and 505 shall be carried out in accordance with the metropolitan planning provisions of section 5204 of title 49.

§ 137. Fringe and corridor parking facilities

(a) The Secretary may approve as a project on a Federal-aid highway the acquisition of land adjacent to the right-of-way outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within

such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area of fifty thousand population or more. Such parking facility shall be located and designed in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility). *The addition of electric vehicle charging stations to new or previously funded parking facilities shall be eligible for funding under this section.*

* * * * * * *

§ 138. Preservation of parklands

(a) DECLARATION OF POLICY.—It is declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project (other than any project for a [park road or parkway under section 204 of this title] *Federal lands transportation facility under section 203*) which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use. In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

* * * * * * *

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

§ 139. Efficient environmental reviews for project decisionmaking

(a) * * *

(b) APPLICABILITY.—

(1) * * *

(2) FLEXIBILITY.—Any authorities granted in this section may be exercised*, and any requirements established in this section may be satisfied,* for a project, class of projects, or program of projects.

(3) FUNDING THRESHOLD.—The Secretary's approval of a project receiving funds under this title or under chapter 53 of title 49 shall not be considered a Federal action for the purposes of the National Environmental Policy Act of 1969 if such funds—

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

(B) are less than $10,000,000.

(4) PROGRAMMATIC COMPLIANCE.—At the request of a State, the Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with respect to environmental programs and permits (in lieu of project-by-project reviews).

(c) LEAD AGENCIES.—

(1) FEDERAL LEAD AGENCY.—The Department of Transportation shall be the Federal lead agency in the environmental review process for a project. *If the project requires approval from more than one modal administration within the Department, the Secretary shall designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.*

* * * * * * *

(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under this title or chapter 53 of title 49 *or other approvals by the Secretary* for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

* * * * * * *

[(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.]

(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency in making any approval of a project subject to this section as the document re-

quired to be completed under the National Environmental Policy Act of 1969.

* * * * * * *

(d) PARTICIPATING AGENCIES.—

(1) * * *

* * * * * * *

[(4) EFFECT OF DESIGNATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

[(A) supports a proposed project; or

[(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.]

(4) EFFECT OF DESIGNATION.—

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

(B) IMPLICATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

(i) supports a proposed project; or

(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

* * * * * * *

[(7) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

[(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

[(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.]

(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

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

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(e) PROJECT INITIATION.—The project sponsor shall notify the Secretary of the type of work, termini, length and general location of the proposed project, together with a statement of any Federal approvals anticipated to be necessary for the proposed project, for the purpose of informing the Secretary that the environmental review process should be initiated. *The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for*

publication in the Federal Register announcing the preparation of an environmental impact statement for the project.

(f) PURPOSE AND NEED.—

(1) * * *

* * * * * * *

(4) ALTERNATIVES ANALYSIS.—

(A) * * *

[(B) RANGE OF ALTERNATIVES.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.]

(B) RANGE OF ALTERNATIVES.—

(i) IN GENERAL.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

(ii) LIMITATION.—The range of alternatives shall be limited to alternatives that are—

(I) consistent with the transportation mode and general design of the project described in the long-range transportation plan or transportation improvement program prepared pursuant to section 5203 or 5204 of title 49; and

(II) consistent with the funding identified for the project under the fiscal constraint requirements of section 5203 or 5204 of title 49.

(iii) RESTRICTION.—A Federal agency may not require the evaluation of any alternative that was evaluated, but not adopted—

(I) in any prior State or Federal environmental document with regard to the applicable long-range transportation plan or transportation improvement program; or

(II) after the preparation of a programmatic or tiered environmental document that evaluated alternatives to the project.

(iv) LEGAL SUFFICIENCY.—The evaluation of the range of alternatives shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

[(C) METHODOLOGIES.—The lead agency]

(C) METHODOLOGIES.—

(i) IN GENERAL.—The lead agency also shall determine, [in collaboration with participating agencies at appropriate times during the study process] *after consultation with participating agencies as part of the scoping process*, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

(ii) COMMENTS.—Each participating agency shall limit comments on such methodologies to those issues that are within the authority and expertise of such participating agency.

(iii) STUDIES.—The lead agency may not conduct studies proposed by any participating agency that are not within the authority or expertise of such participating agency.

* * * * * * *

(E) LIMITATIONS ON THE EVALUATION OF IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL DOCUMENTS.—

(i) IN GENERAL.—The lead agency may not reevaluate, and a Federal agency may not require the reevaluation of, cumulative impacts or growth-inducing impacts where such impacts were previously evaluated in—

(I) a long-range transportation plan or transportation improvement program developed pursuant to section 5203 or 5204 of title 49;

(II) a prior environmental document approved by the Secretary; or

(III) a prior State environmental document approved pursuant to a State law that is substantially equivalent to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(ii) LEGAL SUFFICIENCY.—The evaluation of cumulative impacts and growth inducing impacts shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

(5) EFFECTIVE DECISIONMAKING.—

(A) CONCURRENCE.—At the discretion of the lead agency, a participating agency shall be presumed to concur in the determinations made by the lead agency under this subsection unless the participating agency submits an objection to the lead agency in writing within 30 days after receiving notice of the lead agency's determination and specifies the statutory basis for the objection.

(B) ADOPTION OF DETERMINATION.—If the participating agency concurs or does not object within the 30-day period, the participating agency shall adopt the lead agency's determination for purposes of any reviews, approvals, or other actions taken by the participating agency as part of the environmental review process for the project.

(g) COORDINATION AND SCHEDULING.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—The lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a [project or category of projects] *project, category of projects, or program of projects*. The coordination plan may be incorporated into a memorandum of understanding.

* * * * * * *

[(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days

after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

[(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

[(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

[(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.]

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

(A) PRIOR APPROVAL DEADLINE.—If a participating agency is required to make a determination regarding or otherwise approve or disapprove the project prior to the record of decision or finding of no significant impact of the lead agency, such participating agency shall make such determination or approval not later than 30 days after the lead agency publishes notice of the availability of a final environmental impact statement or other final environmental document, or not later than such other date that is otherwise required by law, whichever occurs first.

(B) OTHER DEADLINES.—With regard to any determination or approval of a participating agency that is not subject to subparagraph (A), each participating agency shall make any required determination regarding or otherwise approve or disapprove the project not later than 90 days after the date that the lead agency approves the record of decision or finding of no significant impact for the project, or not later than such other date that is otherwise required by law, whichever occurs first.

(C) DEEMED APPROVED.—In the event that any participating agency fails to make a determination or approve or disapprove the project within the applicable deadline described in subparagraphs (A) and (B), the project shall be deemed approved by such participating agency, and such approval shall be deemed to comply with the applicable requirements of Federal law.

(D) JUDICIAL REVIEW.—

(i) IN GENERAL.—An approval of a project under subparagraph (C) shall not be subject to judicial review.

(ii) WRITTEN FINDING.—The Secretary may issue a written finding verifying the approval made in accordance with this paragraph.

(h) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) * * *

* * * * * * *

(4) ISSUE RESOLUTION.—

(A) * * *

* * * * * * *

(C) RESOLUTION FINAL.—

(i) IN GENERAL.—The lead agency and participating agencies may not reconsider the resolution of any issue agreed to by the relevant agencies in a meeting under subparagraph (A).

(ii) COMPLIANCE WITH APPLICABLE LAW.—Any such resolution shall be deemed to comply with applicable law notwithstanding that the agencies agreed to such resolution prior to the approval of the environmental document.

(i) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—

(1) IN GENERAL.—The lead agency in the environmental review process for a project, in order to reduce paperwork and expedite decisionmaking, shall prepare a condensed final environmental impact statement.

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

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

(B) any updates to specific pages or sections of the draft environmental impact statement as appropriate; and

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

(3) TIMING OF DECISION.—Notwithstanding any other provision of law, in conducting the environmental review process for a project, the lead agency shall combine a final environmental impact statement and a record of decision for the project into a single document if—

(A) the alternative approved in the record of decision is either a preferred alternative that was identified in the draft environmental impact statement or is a modification of such preferred alternative that was developed in response to comments on the draft environmental impact statement;

(B) the Secretary has received a certification from a State under section 128, if such a certification is required for the project; and

(C) the Secretary determines that the lead agency, participating agency, or the project sponsor has committed to implement the measures applicable to the approved alternative that are identified in the final environmental impact statement.

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

(1) SUPPLEMENTAL ENVIRONMENTAL REVIEW.—After the approval of a record of decision or finding of no significant impact with regard to a project, an agency may not require the preparation of a subsequent environmental document for such project unless the lead agency determines that—

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

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

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

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

(B) more than 5 years has elapsed since the Secretary's prior approval of the project or authorization of project funding.

(3) CHANGE TO RECORD OF DECISION.—After the approval of a record of decision, the Secretary may not require the record of decision to be changed solely because of a change in the fiscal circumstances surrounding the project.

[(i)**]** *(k)* PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

[(j)**]** *(l)* ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

(1) * * *

* * * * * * *

(3) **[**USE OF FEDERAL LANDS HIGHWAY FUNDS**]** *USE OF TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM FUNDS*.—The Secretary may also use funds made available under **[**section 204**]** *sections 202 and 203* for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

* * * * * * *

[(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

[(1) JUDICIAL REVIEW.—Except as set forth under subsection (l), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

[(2) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

[(3) LIMITATIONS.—Nothing in this section shall preempt or interfere with—

[(A) any practice of seeking, considering, or responding to public comment; or

[(B) any power, jurisdiction, responsibility, or authority that a Federal, State, or local government agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.**]**

(m) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary, by regulation, shall—

(A) implement this section; and

(B) establish methodologies and procedures for evaluating the environmental impacts, including cumulative impacts and growth-inducing impacts, of transportation projects subject to this section.

(2) COMPLIANCE WITH APPLICABLE LAW.—Any environmental document that utilizes the methodologies and procedures established under this subsection shall be deemed to comply with the applicable requirements of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or its implementing regulations; or

(B) any other Federal environmental statute applicable to transportation projects.

[(l)**]** *(n)* LIMITATIONS ON CLAIMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within **[**180 days**]** *90 days* after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

[(2) NEW INFORMATION.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 180 days after the date of publication of a notice in the Federal Register announcing such action.**]**

(2) NEW INFORMATION.—The preparation of a supplemental environmental impact statement or other environmental document when required by this section shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of publication of a notice in the Federal Register announcing such action.

(o) LIMITATIONS ON JUDICIAL RELIEF.—Notwithstanding any other provision of law, the following limitations shall apply to actions brought before a court in connection with a project under this section:

(1) Venue for any action shall be where the project is located.

(2) A specific property interest impacted by the transportation project in question must exist in order to have standing to bring an action.

(3) No action may be commenced by any person alleging a violation of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5 and 7 of title 5, or any other Federal law applicable to the evaluation, avoidance, or mitigation of environmental impacts of the project if such Federal law is identified in the draft environmental impact statement, unless such person provided written notice to the lead agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on the draft environmental impact statement; or

(B) any other law with regard to the project unless such person provided written notice to the applicable approving agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on such agency approval.

(4) Elected or appointed officials working for the Government or a State government may not be named in their individual capacities in an action if they are acting within the scope of their official duties.

* * * * * * *

§ 142. Public transportation

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) on Federal-aid highways for the transportation of passengers (hereafter in this section referred to as "buses"), so as to increase the traffic capacity of the Federal-aid systems for the movement of persons, the Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential high occupancy vehicle lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities *(which may include electric vehicle charging stations)* to serve high occupancy vehicle and public mass transportation passengers, and sums apportioned under section 104(b) of this title shall be available to finance the cost of projects under this paragraph. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility and the cost of providing shuttle service to and from the facility (including compensation to any person for operating the facility and for providing such shuttle service).

* * * * * * *

[§ 144. Highway bridge program

[(a) FINDING AND DECLARATION.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be carried out to enable States to improve the condition of their highway bridges over waterways, other topographical barriers, other highways, and railroads through replacement and rehabilitation of bridges that the States and the Secretary determine are structurally deficient or functionally obsolete and through systematic preventive maintenance of bridges.

[(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid highway which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

[(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid highway, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

[(2) The Secretary may, at the request of a State, inventory bridges, on and off Federal-aid highways, for historic significance.

[(3) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall (A) inventory all those highway bridges on Indian reservation roads and park roads which are bridges over waterways, other topographical barriers, other highways, and railroads, (B) classify them according to serviceability, safety, and essentiality for public use, (C) based on the classification, assign each a priority for replacement or rehabilitation, and (D) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

[(d) PARTICIPATION.—

[(1) BRIDGE REPLACEMENT AND REHABILITATION.—On application by a State or States to the Secretary for assistance for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

[(A) replacing the bridge with a comparable facility; or

[(B) rehabilitating the bridge.

[(2) TYPES OF ASSISTANCE.—On application by a State or States to the Secretary, the Secretary may approve Federal assistance for any of the following activities for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c):

[(A) Painting.

[(B) Seismic retrofit.

[(C) Systematic preventive maintenance.

[(D) Installation of scour countermeasures.

[(E) Application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions.

[(3) BASIS FOR DETERMINATION.—The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on structurally deficient and functionally obsolete highway bridges in the State.

[(4) SPECIAL RULE FOR SYSTEMATIC PREVENTIVE MAINTENANCE.—Notwithstanding any other provision of this subsection, a State may carry out a project under paragraph (2)(B), (2)(C), or (2)(D) for a highway bridge without regard to whether the bridge is eligible for replacement or rehabilitation under this section.

[(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient bridge shall be placed into one of the following categories: (1) Federal-aid highway bridges eligible for replacement, (2) Federal-aid highway bridges eligible for rehabilitation, (3) bridges not on Federal-aid highways eligible for replacement, and (4) bridges not on Federal- aid highways eligible for rehabilitation. The deck area of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. For purposes of the preceding sentence, if a State transfers funds apportioned to the State under this section in a fiscal year beginning after September 30, 1997, to any other apportionment of funds to such State under this title, the total cost of deficient bridges in such State and in all States to be determined for the succeeding fiscal year shall be reduced by the amount of such transferred funds. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually. Funds apportioned under this section shall be available for expenditure for the period specified in section 118(b)(2). Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection. The use of funds authorized under this section to carry out a project for the seismic retrofit of a bridge shall not affect the apportionment of funds under this section.

[(f) BRIDGE SET-ASIDES.—

[(1) DESIGNATED PROJECTS.—

[(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of the fiscal years 2006 through 2009, all but $100,000,000 shall be apportioned as provided in subsection (e). Such $100,000,000 shall be available as follows:

[(i) $12,500,000 per fiscal year for the Golden Gate Bridge.

[(ii) $18,750,000 per fiscal year for the construction of a bridge joining the Island of Gravina to the community of Ketchikan in Alaska.

[(iii) $12,500,000 per fiscal year to the State of Nevada for construction of a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area.

[(iv) $12,500,000 per fiscal year to the State of Missouri for construction of a structure over the Mississippi River to connect the City of St. Louis, Missouri, to the State of Illinois.

[(v) $12,500,000 per fiscal year for replacement and reconstruction of State maintained bridges in the State of Oklahoma.

[(vi) $4,500,000 per fiscal year for replacement of the Missisquoi Bay Bridge and the removal of the Missisquoi Bay causeway, Vermont.

[(vii) $8,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Vermont.

[(viii) $8,750,000 per fiscal year for design, planning, and right-of-way acquisition for the Interstate Route 74 bridge from Bettendorf, Iowa, to Moline, Illinois.

[(ix) $10,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Oregon.

[(B) GRAVINA ACCESS SCORING.—The project described in subparagraph (A)(ii) shall not be counted for purposes of the reduction set forth in the fourth sentence of subsection (e).

[(C) PERIOD OF AVAILABILITY.—Amounts made available to a State under this paragraph shall remain available until expended.

[(2) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

[(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2005 through 2009 shall be expended for projects to replace, rehabilitate, paint, perform systematic preventive maintenance or seismic retrofit of, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions to, or install scour countermeasures to, highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

[(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditure for bridges not on a Federal-aid highway under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

[(g) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525-533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters (1) which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce, and (2) which are (a) not tidal, or (b) if tidal, used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

[(h) INVENTORIES AND REPORTS.—The Secretary shall—

[(1) report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on projects approved under this section;

[(2) annually revise the current inventories authorized by subsections (b) and (c) of this section;

[(3) report to such committees on such inventories; and

[(4) report to such committees such recommendations as the Secretary may have for improvements of the program authorized by this section.

Such reports shall be submitted to such committees biennially.

[(i) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

[(j) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

[(k) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project. Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

[(l) REPLACEMENT OF DESTROYED BRIDGES AND FERRYBOAT SERVICE.—

[(1) GENERAL RULE.—Notwithstanding any other provision of this section or of any other provision of law, a State may utilize any of the funds provided under this section to construct any bridge which—

[(A) replaces any low water crossing (regardless of the length of such low water crossing),

[(B) replaces any bridge which was destroyed prior to 1965,

[(C) replaces any ferry which was in existence on January 1, 1984, or

[(D) replaces any road bridges rendered obsolete as a result of United States Corps of Engineers flood control or

channelization projects and not rebuilt with funds from the United States Corps of Engineers.

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

[(m) PROGRAM FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge which is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after the date of the enactment of this subsection from State and local sources for such project in excess of 20 percent of the cost of construction thereof may be credited to the non-Federal share of the cost of the projects in such State which are eligible for Federal funds under this section. Such crediting shall be in accordance with such procedures as the Secretary may establish.

[(n) HISTORIC BRIDGE PROGRAM.—

[(1) COORDINATION.—The Secretary shall, in cooperation with the States, implement the programs described in this section in a manner that encourages the inventory, retention, rehabilitation, adaptive reuse, and future study of historic bridges.

[(2) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine their historic significance.

[(3) ELIGIBILITY.—Reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of historic bridges shall be eligible as reimbursable project costs under this title (including this section) if the load capacity and safety features of the bridge are adequate to serve the intended use for the life of the bridge; except that in the case of a bridge which is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this subsection shall not exceed the estimated cost of demolition of such bridge.

[(4) PRESERVATION.—Any State which proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the bridge available for donation to a State, locality, or responsible private entity if such State, locality, or responsible entity enters into an agreement to—

[(A) maintain the bridge and the features that give it its historic significance; and

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

Costs incurred by the State to preserve the historic bridge, including funds made available to the State, locality, or private entity to enable it to accept the bridge, shall be eligible as reimbursable project costs under this chapter up to an amount

not to exceed the cost of demolition. Any bridge preserved pursuant to this paragraph shall thereafter not be eligible for any other funds authorized pursuant to this title.

[(5) HISTORIC BRIDGE DEFINED.—As used in this subsection, "historic bridge" means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

[(o) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—A project not on a Federal-aid highway under this section shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

[(p) As used in this section the term "rehabilitate" in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

[(q) ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

[(r) FEDERAL SHARE.—

[(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be determined under section 120(b).

[(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be determined under section 120(a).]

* * * * * * *

§ 147. Construction of ferry boats and ferry terminal facilities

(a) * * *

(b) FEDERAL SHARE.—The Federal share of the cost of construction of [ferry boats, ferry terminals, and ferry maintenance facilities] *ferry boats and ferry terminals* under this section shall be 80 percent.

[(c) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this section to those ferry systems, and public entities responsible for developing ferries, that—

[(1) provide critical access to areas that are not well-served by other modes of surface transportation;

[(2) carry the greatest number of passengers and vehicles; or

[(3) carry the greatest number of passengers in passenger-only service.

[(d) SET-ASIDE FOR PROJECTS ON NHS.—

[(1) IN GENERAL.—$20,000,000 of the amount made available to carry out this section for each of fiscal years 2005 through 2009 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

[(2) ALASKA.—$10,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.

[(3) NEW JERSEY.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.

[(4) WASHINGTON.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.

[(e) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b), funds made available to carry out this section shall remain available until expended.]

(c) APPORTIONMENT OF FUNDS.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the construction of ferry boats and ferry terminal facilities for each fiscal year among eligible States in the following manner:

(1) 35 percent based on the total annual number of vehicles carried by ferry systems operating in each eligible State.

(2) 35 percent based on the total annual number of passengers (including passengers in vehicles) carried by ferry systems operating in each eligible State.

(3) 30 percent based on the total nautical route miles serviced by ferry systems operating in each eligible State.

(d) ELIGIBLE STATE DEFINED.—In this section, the term "eligible State" means a State that has a ferry system operating in the State or between the State and another State.

[(f)] *(e)* APPLICABILITY.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.

[§ 148. Highway safety improvement program

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

[(1) HIGH RISK RURAL ROAD.—The term "high risk rural road" means any roadway functionally classified as a rural major or minor collector or a rural local road—

[(A) on which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for those functional classes of roadway; or

[(B) that will likely have increases in traffic volume that are likely to create an accident rate for fatalities and incapacitating injuries that exceeds the statewide average for those functional classes of roadway.

[(2) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "highway safety improvement program" means the program carried out under this section.

[(3) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

[(A) IN GENERAL.—The term "highway safety improvement project" means a project described in the State strategic highway safety plan that—

[(i) corrects or improves a hazardous road location or feature; or

[(ii) addresses a highway safety problem.

[(B) INCLUSIONS.—The term "highway safety improvement project" includes a project for one or more of the following:

[(i) An intersection safety improvement.

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

[(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists, pedestrians, and the disabled.

[(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents.

[(v) An improvement for pedestrian or bicyclist safety or safety of the disabled.

[(vi) Construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings.

[(vii) Construction of a railway-highway crossing safety feature, including installation of protective devices.

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

[(ix) Construction of a traffic calming feature.

[(x) Elimination of a roadside obstacle.

[(xi) Improvement of highway signage and pavement markings.

[(xii) Installation of a priority control system for emergency vehicles at signalized intersections.

[(xiii) Installation of a traffic control or other warning device at a location with high accident potential.

[(xiv) Safety-conscious planning.

[(xv) Improvement in the collection and analysis of crash data.

[(xvi) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety.

[(xvii) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators.

[(xviii) The addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife.

[(xix) Installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian- bicycle crossings and in school zones.

[(xx) Construction and yellow-green signs at pedestrian-bicycle crossings and in school zones.

[(xxi) Construction and operational improvements on high risk rural roads.

[(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—

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

[(B) INCLUSION.—The term "safety project under any other section" includes a project to promote the awareness of the public and educate the public concerning highway safety matters (including motorcyclist safety) and a project to enforce highway safety laws.

[(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "State highway safety improvement program" means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(g).

[(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term "State strategic highway safety plan" means a plan developed by the State transportation department that—

[(A) is developed after consultation with—

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

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

[(iii) representatives of major modes of transportation;

[(iv) State and local traffic enforcement officials;

[(v) persons responsible for administering section 130 at the State level;

[(vi) representatives conducting Operation Lifesaver;

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

[(viii) motor vehicle administration agencies; and

[(ix) other major State and local safety stakeholders;

[(B) analyzes and makes effective use of State, regional, or local crash data;

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

[(D) considers safety needs of, and high-fatality segments of, public roads;

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

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

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

[(H) is consistent with the requirements of section 135(g).

[(b) PROGRAM.—

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

[(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

[(c) ELIGIBILITY.—

[(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

[(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

[(B) produces a program of projects or strategies to reduce identified safety problems;

[(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

[(D) submits to the Secretary an annual report that—

[(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

[(ii) contains an assessment of—

[(I) potential remedies to hazardous locations identified;

[(II) estimated costs associated with those remedies; and

[(III) impediments to implementation other than cost associated with those remedies.

[(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

[(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

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

[(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

[(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

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

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

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

[(iii) are coordinated with other State highway safety programs;

[(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) 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;

[(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, the disabled, and other highway users; and

[(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

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

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

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

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

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

[(d) ELIGIBLE PROJECTS.—

[(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

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

[(B) as provided in subsection (e), other safety projects.

[(2) USE OF OTHER FUNDING FOR SAFETY.—

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

[(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

[(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

[(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 10 percent of the amount of funds apportioned to the State under section 104(b)(5) for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan if the State certifies that—

[(A) the State has met needs in the State relating to railway-highway crossings; and

[(B) the State has met the State's infrastructure safety needs relating to highway safety improvement projects.

[(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

[(f) HIGH RISK RURAL ROADS.—

[(1) IN GENERAL.—After making an apportionment under section 104(b)(5) for a fiscal year beginning after September 30, 2005, the Secretary shall ensure, from amounts made available to carry out this section for such fiscal year, that a total of $90,000,000 of such apportionment is set aside by the States, proportionally according to the share of each State of the total amount so apportioned, for use only for construction and operational improvements on high risk rural roads.

[(2) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project under this section if the State certifies to the Secretary that the State has met all of State needs for construction and operational improvements on high risk rural roads.

[(g) REPORTS.—

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

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

[(B) assesses the effectiveness of those improvements; and

[(C) describes the extent to which the improvements funded under this section contribute to the goals of—

[(i) reducing the number of fatalities on roadways;

[(ii) reducing the number of roadway-related injuries;

[(iii) reducing the occurrences of roadway-related crashes;

[(iv) mitigating the consequences of roadway-related crashes; and

[(v) reducing the occurrences of crashes at railway-highway crossings.

[(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

[(3) TRANSPARENCY.—The Secretary shall make reports submitted under subsection (c)(1)(D) available to the public through—

[(A) the Web site of the Department; and

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

[(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State

court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

[(h) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(5) shall be 90 percent.]

§ 148. Highway safety improvement program

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

(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "highway safety improvement program" means the program carried out under this section.

(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term "highway safety improvement project" means a project consistent with an applicable State strategic highway safety plan that—

(A) corrects or improves a roadway feature that constitutes a hazard to any road users; or

(B) addresses any other highway safety problem.

(3) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term "project to maintain minimum levels of retroreflectivity" means a project undertaken pursuant to the provisions of the Manual on Uniform Traffic Control Devices that require the use of an assessment or management method designed to maintain highway sign or pavement marking retroreflectivity at or above minimum levels prescribed in the Manual.

(4) ROAD USERS.—The term "road users" means motor vehicle drivers and passengers, public transportation operators and users, truck drivers, bicyclists, motorcyclists, and pedestrians, including persons with disabilities.

(5) SAFETY DATA.—The term "safety data" includes crash, roadway, driver licensing, and traffic data with respect to all public roads and, for highway-rail grade crossings, data on the characteristics of highway and train traffic.

(6) SAFETY PROJECT UNDER ANY OTHER SECTION.—

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

(B) INCLUSION.—The term "safety project under any other section" includes—

(i) projects consistent with an applicable State strategic highway safety plan that promote the awareness of the public and educate the public concerning highway safety matters (including motorcycle safety);

(ii) projects to enforce highway safety laws; and

(iii) projects to provide infrastructure and equipment to support emergency services.

(7) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "State highway safety improvement program" means a program of highway safety improvement projects carried out as

part of the statewide transportation improvement program under section 5204(g) of title 49.

(8) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term "State strategic highway safety plan" means a comprehensive, data-driven safety plan developed in accordance with subsection (c)(2).

(b) IN GENERAL.—The Secretary shall carry out a highway safety improvement program that is consistent with achieving a significant reduction in traffic fatalities and serious injuries on all public roads.

(c) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program that—

(A) includes a set of projects that are consistent with the State strategic highway safety plan of the State;

(B) satisfies the requirements of this section; and

(C) is consistent with the State's statewide transportation improvement program under section 5204(g) of title 49.

(2) STRATEGIC HIGHWAY SAFETY PLAN.—As part of the State highway safety improvement program of the State, each State shall have in effect, update at least every 2 years, and submit to the Secretary a State strategic highway safety plan that—

(A) is developed after consultation with—

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

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

(iii) representatives of major modes of transportation;

(iv) State and local traffic enforcement officials;

(v) representatives of entities conducting a Federal or State motor carrier safety program;

(vi) motor vehicle administration agencies;

(vii) a highway-rail grade crossing safety representative of the Governor of the State; and

(viii) other major Federal, State, tribal, regional, and local safety stakeholders;

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

(C) defines State safety goals, including with respect to performance measures established under section 5206 of title 49;

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

(E) analyzes and makes effective use of State, regional, and local safety data, including data from the safety data system required under subsection (e);

(F) considers the results of Federal, State, regional, and local transportation and highway safety planning processes; and

(G) considers the safety needs of, and high-fatality segments of, public roads.

(3) IMPLEMENTATION.—

(A) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program of the State, each State shall, including through use of the safety data system required under subsection (e)—

(i) identify roadway features that constitute a hazard to road users;

(ii) identify highway safety improvement projects on the basis of crash history (including crash rates), crash potential, or other data-supported means;

(iii) establish the relative severity of the risks of roadway features based on crash, injury, fatality, traffic volume, and other relevant data (including the number and rates of crashes, injuries, and fatalities);

(iv) identify the 100 most dangerous roads in the State, including specific intersections and sections of roads, based on the risk factors described in clause (iii);

(v) consider whether highway safety improvement projects maximize opportunities to advance safety; and

(vi) in conjunction with the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration, evaluate the progress made each year in achieving State safety goals identified in the State strategic highway safety plan.

(B) SCHEDULE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—As part of the State highway safety improvement program of the State, each State shall, including through use of the safety data system required under subsection (e)—

(i) identify highway safety improvement projects;

(ii) determine priorities for the correction of roadway features that constitute a hazard to road users as identified through safety data analysis; and

(iii) establish and implement a schedule of highway safety improvement projects to address roadway features identified as constituting a hazard to road users.

(4) ELIGIBLE PROJECTS.—

(A) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

(i) any highway safety improvement project on any public road or publicly owned pathway or trail;

(ii) any project to put in effect or improve the safety data system required under subsection (e), without regard to whether the project is included in an applicable State strategic highway safety plan;

(iii) any project to maintain minimum levels of retroreflectivity with respect to a public road, without regard to whether the project is included in an applicable State strategic highway safety plan;

(iv) any project for roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled "Highway Design Handbook for

Older Drivers and Pedestrians" (Publication number FHWA RD–01–103), or any successor publication; or

(v) as provided in subsection (d), other projects.

(B) USE OF OTHER FUNDING FOR SAFETY IMPROVEMENT PROJECTS.—

(i) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

(ii) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using, for a highway safety improvement project, funds made available under other provisions of this title (except a provision that specifically prohibits that use).

(C) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

(i) PROHIBITION.—A State may not obligate funds apportioned to the State under section 104(b) to carry out any program to purchase, operate, or maintain an automated traffic enforcement system.

(ii) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this subparagraph, the term "automated traffic enforcement system" means automated technology that monitors compliance with traffic laws.

(5) UPDATED STATE STRATEGIC HIGHWAY SAFETY PLAN REQUIRED.—

(A) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) for the second fiscal year beginning after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012 only if the State has in effect and has submitted to the Secretary an updated State strategic highway safety plan that satisfies requirements under this subsection.

(B) TRANSITION.—Before the second fiscal year beginning after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, a State may obligate funds apportioned to the State under section 104(b)(5) in a manner consistent with a State strategic highway safety plan of the State developed before such date of enactment.

(d) FLEXIBLE FUNDING.—To further the implementation of a State strategic highway safety plan and the achievement of performance measures established under section 5206 of title 49, a State may use not more than 10 percent of the funds apportioned to the State under section 104(b)(5) for a fiscal year to carry out safety projects under any other section if—

(1) the use is consistent with the State strategic highway safety plan of the State; and

(2) the State certifies to the Secretary that the funds are being used for the most effective projects for making progress toward achieving performance measures established under section 5206 of title 49.

(e) SAFETY DATA SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, each State, as part of the State highway safety improve-

ment program of the State, shall have in effect a safety data system to—

(A) collect and maintain a record of safety data with respect to all public roads in the State;

(B) advance the capabilities of the State with respect to safety data collection, analysis, and integration;

(C) identify roadway features that constitute a hazard to road users; and

(D) perform safety problem identification and countermeasure analysis.

(2) IMPROVEMENT EFFORTS.—Each State shall carry out projects, as needed, to ensure that the safety data system of the State enhances—

(A) the timeliness, accuracy, completeness, uniformity, and accessibility of safety data with respect to all public roads in the State;

(B) the ability of the State to integrate all safety data collected throughout the State;

(C) the ability of State and national safety data systems to be compatible and interoperable;

(D) the ability of the Secretary to observe and analyze national trends in crash rates, outcomes, and circumstances; and

(E) the collection of data on crashes that involve a bicyclist or pedestrian.

(3) EVALUATION OF IMPROVEMENT EFFORTS.—Each State shall collect and maintain a record of projects undertaken to improve the safety data system of the State and shall evaluate the effectiveness of such projects.

(f) TRANSPARENCY.—A State shall make all plans and reports submitted to the Secretary under this section available to the public through—

(1) the Internet Web site of the State transportation department of the State; or

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

(g) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to this section, or published in accordance with subsection (f), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

(h) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—The Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(5) shall be 90 percent, unless a Federal share exceeding 90 percent would apply to the project under section 120 or 130.

§ 149. Congestion mitigation and air quality improvement program

(a) * * *

[(b) ELIGIBLE PROJECTS.—Except as provided in subsection (c), a State may obligate funds apportioned to it under section 104(b)(2) for the congestion mitigation and air quality improvement program only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and—

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

[(I) the attainment of a national ambient air quality standard; or

[(II) the maintenance of a national ambient air quality standard in a maintenance area; and

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

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

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

[(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors;

[(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program, including advanced truck stop electrification systems, is likely to contribute to the attainment of a national ambient air quality standard;

[(5) if the program or project improves traffic flow, including projects to improve signalization, construct high occupancy vehicle lanes, improve intersections, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement intelligent transportation system strategies and such other projects that are eligible for

assistance under this section on the day before the date of enactment of this paragraph;

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

[(7) if the project or program is for—

[(A) the purchase of diesel retrofits that are—

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

[(ii) published in the list under subsection (f)(2) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

[(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

[(II) funded, in whole or in part, under this title; or

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

No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times. In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM-10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.]

(b) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—

(A) REQUIREMENTS FOR OBLIGATION OF FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(2) for a transportation project or program if the project or program meets the requirements of subparagraph (B) and (C).

(B) AREA SERVED BY PROJECT OR PROGRAM.—A project or program meets the requirements of this subparagraph if the project or program is for an area in the State that—

(i) is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b));

(ii) is or was designated as a nonattainment area under such section 107(d) after December 31, 1997; or

(iii) is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7505a).

(C) PURPOSE OF PROJECT OR PROGRAM.—A project or program meets the requirements of this subparagraph if—

(i) the Secretary, after consultation with the Administrator, determines that—

(I) on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi) of such section), the project or program is likely to contribute to—

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

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

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

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

(iii) the Secretary, after consultation with the Administrator, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard through reductions in travel time delay, vehicle miles traveled, or fuel consumption or through other factors; or

(iv) the Secretary determines that the project or program is likely to contribute to the mitigation of congestion.

(2) SPECIAL RULES.—

(A) PROJECTS RESULTING IN NEW CAPACITY FOR SINGLE OCCUPANT VEHICLES.—A State may obligate funds apportioned to the State under section 104(b)(2) for a project or program that will result in the construction of new capacity available to single occupant vehicles only if the project or program is likely to contribute to the mitigation of congestion or the improvement of air quality.

(B) PROJECTS FOR PM-10 NONATTAINMENT AREAS.—A State may obligate funds apportioned to the State under section 104(b)(2) for a project or program for an area that is nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

(C) ELECTRIC VEHICLE INFRASTRUCTURE.—A State may obligate funds apportioned under section 104(b)(2) or 104(b)(3) for a project or program to establish or support the establishment of electric vehicle battery charging or changing facilities at any location in the State. Such projects or programs may be carried out by a State or local agency or through a public-private partnership.

* * * * * * *

[(f) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—

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

[(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

[(B) DIESEL RETROFIT.—The term "diesel retrofit" means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

[(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel retrofit technologies and supporting technical information for—

[(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

[(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources Board that is submitted not later that 18 months of the date of enactment of this subsection;

[(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration air quality and health effects.

[(3) PRIORITY.—

[(A) IN GENERAL.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion mitigation and air quality projects and programs from apportionments derived from application of sections 104(b)(2)(B) and 104(b)(2)(C) to—

[(i) diesel retrofits, particularly where necessary to facilitate contract compliance, and other cost-effective emission reduction activities, taking into consideration air quality and health effects; and

[(ii) cost-effective congestion mitigation activities that provide air quality benefits.

[(B) SAVINGS.—This paragraph is not intended to disturb the existing authorities and roles of governmental agencies in making final project selections.

[(4) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies or otherwise affects any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other law (other than provisions of this title relating to congestion mitigation and air quality).]

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

[(h)] *(g)* EVALUATION AND ASSESSMENT OF PROJECTS.—

(1) * * *

* * * * * * *

[§ 151. National bridge inspection program

[(a) NATIONAL BRIDGE INSPECTION STANDARDS.—The Secretary, in consultation with the State transportation departments and interested and knowledgeable private organizations and individuals, shall establish national bridge inspection standards for the proper safety inspection and evaluation of all highway bridges.

[(b) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under subsection (a) shall, at a minimum—

[(1) specify, in detail, the method by which such inspections shall be carried out by the States;

[(2) establish the maximum time period between inspections;

[(3) establish the qualification for those charged with carrying out the inspections;

[(4) require each State to maintain and make available to the Secretary upon request—

[(A) written reports on the results of highway bridge inspections together with notations of any action taken pursuant to the findings of such inspections; and

[(B) current inventory data for all highway bridges reflecting the findings of the most recent highway bridge inspections conducted; and

[(5) establish a procedure for national certification of highway bridge inspectors.

[(c) TRAINING PROGRAM FOR BRIDGE INSPECTORS.—The Secretary, in cooperation with the State transportation departments, shall establish a program designed to train appropriate governmental employees to carry out highway bridge inspections. Such training program shall be revised from time to time to take into account new and improved techniques.

[(d) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available pursuant to the provisions of section 104(a), section 502, and section 144 of this title.

[§ 152. Hazard elimination program

[(a) IN GENERAL.—

[(1) PROGRAM.—Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

[(2) HAZARDS.—In carrying out paragraph (1), a State may, at its discretion—

[(A) identify, through a survey, hazards to motorists, bicyclists, pedestrians, and users of highway facilities; and

[(B) develop and implement projects and programs to address the hazards.

[(b) The Secretary may approve as a project under this section any safety improvement project, including a project described in subsection (a).

[(c) Funds authorized to carry out this section shall be available for expenditure on—

[(1) any public road;

[(2) any public surface transportation facility or any publicly owned bicycle or pedestrian pathway or trail; or

[(3) any traffic calming measure.

[(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

[(e) Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

[(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for various types of corrections and treatments which shall be used in setting priorities for safety improvement projects.

[(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year on the progress being made by the States in implementing the hazard elimination program (including but not limited to any projects for pavement marking). The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

[(h) For the purposes of this section the term "State" shall have the meaning given it in section 401 of this title.]

§ 151. National highway bridge and tunnel inventory and inspection program

(a) NATIONAL HIGHWAY BRIDGE AND TUNNEL INVENTORY.—The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges and tunnels, shall—

(1) inventory all bridges on public roads, on and off Federal-aid highways, including tribally owned and federally owned bridges, that are over waterways, other topographical barriers, other highways, and railroads;

(2) inventory all tunnels on public roads, on and off Federal–aid highways, including tribally owned and federally owned tunnels;

(3) identify each bridge or tunnel inventoried under paragraph (1) or (2) that is structurally deficient or functionally obsolete;

(4) assign a risk-based priority for replacement or rehabilitation of each structurally deficient bridge or tunnel identified under paragraph (3) after consideration of safety, serviceability, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge or tunnel is diminished; and

(5) determine the cost of replacing each structurally deficient bridge or tunnel identified under paragraph (3) with a comparable facility or the cost of rehabilitating the bridge or tunnel.

(b) NATIONAL HIGHWAY BRIDGE AND TUNNEL INSPECTION STANDARDS.—

(1) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper safety inspection and evaluation of all highway bridges and tunnels described in subsections (a)(1) and (a)(2). The standards shall be designed to ensure uniformity in the conduct of such inspections and evaluations.

(2) MINIMUM REQUIREMENTS FOR INSPECTION STANDARDS.—At a minimum, the standards established under paragraph (1) shall—

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

(B) establish the maximum time period between inspections;

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

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

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

(ii) inventory data for all highway bridges and tunnels described in subsections (a)(1) and (a)(2) under the jurisdiction of the State, Federal agency, or tribal government that reflect the findings of the most recent highway bridge and tunnel inspections;

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

(F) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for the Secretary to conduct reviews of State and Federal agency compliance with the standards established under this subsection; and

(G) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for the States to follow in reporting to the Secretary—

(i) critical findings relating to structural safety-related deficiencies of highway bridges and tunnels; and

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

(3) COMPLIANCE REQUIREMENTS.—

(A) REVIEWS OF STATE COMPLIANCE.—The Secretary shall annually review State compliance with the standards established under this section.

(B) FINDINGS OF NONCOMPLIANCE.—If the Secretary identifies noncompliance by a State in conducting an annual review under subparagraph (A), the Secretary shall issue a report detailing the noncompliance by December 31 of the calendar year in which the review is conducted and shall provide the State an opportunity to address the noncompliance by—

(i) developing a corrective action plan to remedy the noncompliance; or

(ii) resolving the noncompliance within 45 days of receiving notification of the noncompliance.

(4) PENALTY FOR NONCOMPLIANCE.—

(A) FUNDING REQUIREMENT.—If the Secretary identifies noncompliance by a State in conducting an annual review under paragraph (3)(A) in a calendar year, and the State fails to address the noncompliance in the manner described in paragraph (3)(B) by August 1 of the succeeding year, on October 1 of such succeeding year, and each year thereafter as necessary, the Secretary shall require the State to dedicate funds apportioned to the State under sections 104(b)(1) and 104(b)(3) to correct the noncompliance.

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

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

(ii) require approval by the Secretary.

(c) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—The Secretary, in cooperation with State transportation departments, shall establish a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

(d) AVAILABILITY OF FUNDS.—In carrying out this section—

(1) the Secretary may use funds made available to the Secretary under sections 104(a) and 503;

(2) a State may use amounts apportioned to the State under sections 104(b)(1), 104(b)(3), and 104(b)(5);

(3) an Indian tribe may use funds made available to the Indian tribe under section 502; and

(4) a Federal agency may use funds made available to the agency under section 503.

* * * * * * *

[§ 155. Access highways to public recreation areas on certain lakes

[(a) The Secretary is authorized to construct or reconstruct access highways to public recreation areas on lakes in order to ac-

commodate present and projected traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

[(1) No portion of any access highway constructed or reconstructed under this section shall exceed thirty-five miles in length nor shall any portion of such highway be located more than thirty-five miles from the nearest part of such recreation area.

[(2) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials, after consultation with the head of the Federal agency (if any) having jurisdiction over the public recreation area involved.

[(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 75 per centum of the cost of construction or reconstruction of such project.

[(c) All of the provisions of this title applicable to highways on the Federal-aid system (other than the Interstate System) determined appropriate by the Secretary, except those provisions which the Secretary determines are inconsistent with this section, shall apply to any highway designated under this section which is not a part of the Federal-aid system when so designated.

[(d) For the purpose of this section the term "lake" means any lake, reservoir, pool, or other body of water resulting from the construction of any lock, dam, or similar structure by the Corps of Engineers, Department of the Army, or the Bureau of Reclamation, Department of the Interior, or the Tennessee Valley Authority, and any multipurpose lake resulting from construction assistance of the Soil Conservation Service, Department of Agriculture. This section shall apply to lakes heretofore or hereafter constructed or authorized for construction.

[(e) There is authorized to be appropriated not to exceed $25,000,000 for the fiscal year 1976 to carry out this section. Amounts authorized by this subsection for a fiscal year shall be available for that fiscal year and for the two succeeding fiscal years.]

§ 156. [Proceeds from the sale or lease of real property] *Sale or lease of real property*

(a) * * *

* * * * * * *

(d) ASSESSMENT OF ADVERSE EFFECTS.—Notwithstanding part 800 of title 36, Code of Federal Regulations, the sale or lease by a State of any historic property that is not listed in the National Register of Historic Places shall not be considered an adverse effect to the property within any consultation process carried out under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

[§ 157. Safety incentive grants for use of seat belts

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

[(1) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured

primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

[(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term "multipurpose passenger motor vehicle" means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

[(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term "national average seat belt use rate" means, in the case of each of calendar years 1996 through 2003, the national average seat belt use rate for that year, as determined by the Secretary.

[(4) PASSENGER CAR.—The term "passenger car" means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

[(5) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" means a passenger car or a multipurpose passenger motor vehicle.

[(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term "savings to the Federal Government" means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

[(7) SEAT BELT.—The term "seat belt" means—

[(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

[(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

[(8) STATE SEAT BELT USE RATE.—The term "State seat belt use rate" means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

[(A) for each of calendar years 1996 and 1997, by the State, as weighted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

[(B) for each of calendar years 1998 through 2003, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

[(b) DETERMINATIONS BY THE SECRETARY.—Not later than September 1, 1998, and September 1 of each calendar year thereafter through September 1, 2005, the Secretary shall determine—

[(1)(A) which States had, for each of the previous calendar years (in this subsection referred to as the "previous calendar year") and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

[(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate

for the previous calendar year exceeds the national average seat belt use rate for that year; and

[(2) in the case of each State that is not a State described in paragraph (1)(A)—

[(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1996 through the calendar year preceding the previous calendar year; and

[(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

[(c) ALLOCATIONS.—

[(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2004, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

[(2) OTHER STATES.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2004, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

[(d) USE OF AMOUNTS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

[(e) CRITERIA.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

[(f) INNOVATIVE SEAT BELT PROJECT ALLOCATIONS.—

[(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (g)(3) to make allocations to States to carry out innovative projects to promote increased seat belt use rates.

[(2) DETERMINATION OF ELIGIBILITY.—To be eligible to receive an allocation under this subsection for a fiscal year, a State shall—

[(A) develop a plan for innovative projects described in paragraph (1); and

[(B) submit the plan to the Secretary not later than March 1 of the fiscal year.

[(3) PLAN SELECTION.—

[(A) CRITERIA.—Not later than December 1, 1998, the Secretary shall establish criteria for the selection of State plans for allocations under this subsection.

[(B) SELECTION.—The Secretary shall select State plans for allocations under this subsection in accordance with the criteria established under subparagraph (A).

[(C) STATES.—In carrying out this paragraph, the Secretary shall ensure, to the maximum extent practicable, demographic and geographic diversity and a diversity of

seat belt use rates among the States selected for allocations.

[(4) ALLOCATION.—Not later than October 1, 1999, and each October 1 thereafter through October 1, 2004, the Secretary shall allocate funds to the States whose plans were selected under paragraph (3).

[(5) AMOUNT OF ALLOCATIONS.—Subject to the availability of unallocated amounts under subsection (g)(3), the amount of each allocation to a State under this subsection shall be not less than $100,000 for each fiscal year that is covered by a State plan.

[(6) USE OF ALLOCATIONS.—An allocation to a State under this subsection shall be used to carry out the innovative seat belt projects described in the State plan for which the allocation is awarded.

[(7) FEDERAL SHARE.—The Federal share of the cost of an innovative seat belt project under this section shall be 100 percent.

[(8) PERIOD OF AVAILABILITY.—Amounts allocated to a State under this subsection shall remain available for obligation in the State for a period of 3 years after the last day of the fiscal year for which the amounts are allocated.

[(g) FUNDING.—

[(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $82,000,000 for fiscal year 1999, $92,000,000 for fiscal year 2000, $102,000,000 for fiscal year 2001, $112,000,000 for fiscal year 2002, $112,000,000 for fiscal year 2003, $112,000,000 for fiscal year 2004, and $112,000,000 for fiscal year 2005.

[(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

[(3) USE OF UNALLOCATED FUNDS.—

[(A) FISCAL YEAR 1999.—To the extent that the amounts made available for fiscal year 1999 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for fiscal year 1999, the excess amounts—

[(i) shall be apportioned in accordance with section 104(b)(3);

[(ii) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

[(iii) shall be available for any purpose eligible for funding under section 133.

[(B) FISCAL YEARS 2000 THROUGH 2005.—To the extent that the amounts made available for any of fiscal years 2000 through 2005 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts shall be used to make allocations under subsection (f).]

* * * * * * *

[§ 160. Reimbursement for segments of the Interstate System constructed without Federal assistance

[(a) GENERAL AUTHORITY.—The Secretary shall allocate to the States in each of fiscal years 1996 and 1997 amounts determined under subsection (b) for reimbursement of their original contributions to construction of segments of the Interstate System which were constructed without Federal financial assistance.

[(b) DETERMINATION OF REIMBURSEMENT AMOUNT.—The amount to be reimbursed to a State in each of fiscal years 1996 and 1997 under this section shall be determined by multiplying the amount made available for carrying out this section for such fiscal year by the reimbursement percentage set forth in the table contained in subsection (c).

[(c) REIMBURSEMENT TABLE.—For purposes of carrying out this section, the reimbursement percentage, the original cost for constructing the Interstate System, and the total reimbursable amount for each State is set forth in the following table:

[States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Alabama	$9	0.50	$147
Alaska		0.50	147
Arizona	20	0.50	147
Arkansas	6	0.50	147
California	298	5.42	1,591
Colorado	23	0.50	147
Connecticut	314	5.71	1,676
Delaware	39	0.71	209
Florida	31	0.56	164
Georgia	46	0.84	246
Hawaii		0.50	147
Idaho	5	0.50	147
Illinois	475	8.62	2,533
Indiana	167	3.03	892
Iowa	5	0.50	147
Kansas	101	1.84	540
Kentucky	32	0.57	169
Louisiana	22	0.50	147
Maine	38	0.69	204
Maryland	154	2.79	820
Massachusetts	283	5.14	1,511
Michigan	228	4.14	1,218
Minnesota	16	0.50	147
Mississippi	6	0.50	147
Missouri	74	1.35	396
Montana	5	0.50	147
Nebraska	1	0.50	147
Nevada	2	0.50	147
New Hampshire	8	0.50	147
New Jersey	353	6.41	1,882
New Mexico	8	0.50	147
New York	929	16.88	4,960
North Carolina	36	0.65	191
North Dakota	3	0.50	147
Ohio	257	4.68	1,374
Oklahoma	91	1.66	486
Oregon	78	1.42	417
Pennsylvania	354	6.43	1,888
Rhode Island	12	0.50	147
South Carolina	4	0.50	147
South Dakota	5	0.50	147
Tennessee	7	0.50	147

[States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Texas	200	3.64	1,069
Utah	6	0.50	147
Vermont	1	0.50	147
Virginia	111	2.01	591
Washington	73	1.32	389
West Virginia	5	0.50	147
Wisconsin	8	0.50	147
Wyoming	9	0.50	147
D.C.	9	0.50	147
TOTALS	$4,967	100.00	$29,384

[(d) TRANSFER OF REIMBURSABLE AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (e) of this section, the Secretary shall transfer amounts allocated to a State pursuant to this section to the apportionment of such State under section 104(b)(3) for the surface transportation program.

[(e) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of this title shall not apply to 1/2 of the amounts transferred under subsection (d) to the apportionment of the State for the surface transportation program:

[(1) Subsection (d)(1).

[(2) Subsection (d)(2).

[(3) Subsection (d)(3).

[(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $2,000,000,000 per fiscal year for each of fiscal years 1996 and 1997 to carryout this section.]

* * * * * * *

[§ 162. National scenic byways program

[(a) DESIGNATION OF ROADS.—

[(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as—

[(A) National Scenic Byways;

[(B) All-American Roads; or

[(C) America's Byways.

[(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

[(3) NOMINATION.—

[(A) IN GENERAL.—To be considered for a designation, a road must be nominated by a State, an Indian tribe, or a Federal land management agency and must first be designated as a State scenic byway, an Indian tribe scenic byway, or, in the case of a road on Federal land, as a Federal land management agency byway.

[(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway, an All-American Road, or one of America's Byways under paragraph (1) only if a Federal land management agency (other

than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

[(i) jurisdiction over the road; or

[(ii) responsibility for managing the road.

[(C) SAFETY.—An Indian tribe shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).

[(4) RECIPROCAL NOTIFICATION.—States, Indian tribes, and Federal land management agencies shall notify each other regarding nominations made under this subsection for roads that—

[(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

[(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.

[(b) GRANTS AND TECHNICAL ASSISTANCE.—

[(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States and Indian tribes to—

[(A) implement projects on highways designated as—

[(i) National Scenic Byways;

[(ii) All-American Roads;

[(iii) America's Byways;

[(iv) State scenic byways; or

[(v) Indian tribe scenic byways; and

[(B) plan, design, and develop a State or Indian tribe scenic byway program.

[(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

[(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway, All-American Road, or 1 of America's Byways and that is consistent with the corridor management plan for the byway;

[(B) each eligible project along a State or Indian tribe scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as—

[(i) a National Scenic Byway;

[(ii) an All-American Road; or

[(iii) 1 of America's Byways; and

[(C) each eligible project that is associated with the development of a State or Indian tribe scenic byway program.

[(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

[(1) An activity related to the planning, design, or development of a State or Indian tribe scenic byway program.

[(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

[(3) Safety improvements to a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways.

[(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, overlook, or interpretive facility.

[(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

[(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

[(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

[(8) Development and implementation of a scenic byway marketing program.

[(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

[(e) SAVINGS CLAUSE.—The Secretary shall not withhold any grant or impose any requirement on a State or Indian tribe as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter.

[(f) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.]

* * * * * * *

§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

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

(1) * * *

* * * * * * *

[(3) LICENSE SUSPENSION.—The term "license suspension" means the suspension of all driving privileges.]

[(4)] *(3)* MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

[(5)] *(4)* REPEAT INTOXICATED DRIVER LAW.—The term "repeat intoxicated driver law" means a State law that provides, as a minimum penalty, that an individual convicted of a second

or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

[(A) receive—

[(i) a driver's license suspension for not less than 1 year; or

[(ii) a combination of suspension of all driving privileges for the first 45 days of the suspension period followed by a reinstatement of limited driving privileges for the purpose of getting to and from work, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual;]

(A) receive—

(i) a suspension of all driving privileges for not less than 1 year; or

(ii) a suspension of unlimited driving privileges for 1 year with limited driving privileges permitted (subject to requirements established under State law) if an ignition interlock device is installed for not less than 1 year on each motor vehicle owned or operated, or both, by the individual;

* * * * * * *

(b) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1 1/2 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

(A) to be used for [alcohol-impaired driving countermeasures] *projects and activities addressing impaired driving (as such term is defined in section 402(p)(11))*; or

* * * * * * *

§ 165. Puerto Rico highway program

[(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section for each of fiscal years 2005 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

[(b) APPLICABILITY OF TITLE.—Amounts made available by section 1101(a)(14) of the SAFETEA-LU shall be available for obligation in the same manner as if such funds were apportioned under this chapter.]

(a) ALLOCATION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall allocate the funds made available for the fiscal year to carry out this section to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

(b) APPLICABILITY OF TITLE.—Amounts made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

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

(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under [sections 104(b) and 144] *section 104(b)*, for each program funded under those sections in an amount determined by multiplying—

(A) * * *

* * * * * * *

(d) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to subsection (c)(2), nothing in this section affects any allocation under section 105 and any apportionment under [sections 104 and 144] *section 104*.

§ 166. HOV facilities

(a) * * *

(b) EXCEPTIONS.—

(1) * * *

* * * * * * *

(5) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

(A) INHERENTLY LOW EMISSION VEHICLE.—Before September 30, [2009] *2016*, the State agency may allow vehicles that are certified as inherently low-emission vehicles pursuant to section 88.311-93 of title 40, Code of Federal Regulations (or successor regulations), and are labeled in accordance with section 88.312-93 of such title (or successor regulations), to use the HOV facility if the agency establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, [2009] *2016*, the State agency may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—

(i) * * *

* * * * * * *

(C) AMOUNT OF TOLLS.—Under [subparagraph (B)] *this paragraph*, a State agency may charge no toll or may charge a toll that is less than *or equal to* tolls charged under paragraph (4).

(c) REQUIREMENTS APPLICABLE TO TOLLS.—

(1) * * *

* * * * * * *

[(3) EXCESS TOLL REVENUES.—If a State agency makes a certification under section 129(a)(3) with respect to toll revenues collected under paragraphs (4) and (5) of subsection (b), the State, in the use of toll revenues under that sentence, shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.]

(3) TOLL REVENUE.—Toll revenue collected under this section is subject to the requirements of section 129(a)(3).

(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

(1) * * *

(2) DEGRADED FACILITY.—

(A) * * *

* * * * * * *

(D) MAINTENANCE OF OPERATING PERFORMANCE.—Not later than 6 months after a facility has been determined to be degraded pursuant to the standard specified in subparagraph (B), the State agency with jurisdiction over the facility shall bring the facility into compliance with the minimum average operating speed performance standard through changes to operation of the facility, including—

(i) increasing the occupancy requirement for HOV lanes;

(ii) varying the toll charged to vehicles allowed under subsection (b) to reduce demand;

(iii) discontinuing allowing non-HOV vehicles to use HOV lanes under subsection (b); or

(iv) increasing the available capacity of the HOV facility.

* * * * * * *

§ 167. Integration of planning and environmental review

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

(1) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term "environmental review process" means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) INCLUSIONS.—The term "environmental review process" includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) PLANNING PRODUCT.—The term "planning product" means any decision, analysis, study, or other documented result of an evaluation or decisionmaking process carried out during transportation planning.

(3) PROJECT.—The term "project" means any highway project or program of projects, public transportation capital project or program of projects, or multimodal project or program of projects that requires the approval of the Secretary.

(4) PROJECT SPONSOR.—The term "project sponsor" means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

(b) PURPOSE AND FINDINGS.—

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

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

(B) foster better decisionmaking;

(C) reduce duplication in work;

(D) avoid delays in transportation improvements; and

(E) better transportation and environmental results for communities and the United States.

(2) FINDINGS.—Congress finds the following:

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

(B) This section should be broadly construed and may be applied to any project, class of projects, or program of projects carried out under this title or chapter 53 of title 49.

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

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to the conditions set forth in subsection (e), the Federal lead agency for a project, at the request of the project sponsors, may adopt and use a planning product in proceedings relating to any class of action in the environmental review process of the project.

(2) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

(3) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product shall be made at the time the lead agencies decide the appropriate scope of environmental review for the project.

(d) APPLICABILITY.—

(1) PLANNING DECISIONS.—Planning decisions that may be adopted pursuant to this section include—

(A) a purpose and need or goals and objectives statement for the project, including with respect to whether tolling, private financial assistance, or other special financial measures are necessary to implement the project;

(B) a decision with respect to travel corridor location, including project termini;

(C) a decision with respect to modal choice, including a decision to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;

(D) a decision with respect to the elimination of unreasonable alternatives and the selection of the range of reasonable alternatives for detailed study during the environmental review process;

(E) a basic description of the environmental setting;

(F) a decision with respect to methodologies for analysis; and

(G) identifications of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with Federal, State, local, and tribal resource agencies,

determines are most effectively addressed at a regional or national program level, including—

(i) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation investments on environmental resources, including regional ecosystem and water resources; and

(ii) potential mitigation activities, locations, and investments.

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

(A) travel demands;

(B) regional development and growth;

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

(D) population and employment;

(E) natural and built environmental conditions;

(F) environmental resources and environmentally sensitive areas;

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

(H) mitigation needs for a proposed action, or for programmatic level mitigation, for potential effects that the Federal lead agency determines are most effectively addressed at a regional or national program level.

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

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

(2) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects.

(3) During the planning process, notice was provided through publication or other means to Federal, State, and local government agencies and tribal governments that might have an interest in the proposed project, and to members of the general public, of the planning products that the planning process might produce and that might be relied on during the environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

(4) Prior to determining the scope of environmental review for the project, the joint lead agencies have made documentation relating to the planning product available to Federal, State, and local governmental agencies and tribal governments that may have an interest in the proposed action, and to members of the general public.

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

(6) The planning product is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

(7) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

(8) The planning product is appropriate for adoption and use in the environmental review process for the project.

(f) EFFECT OF ADOPTION.—Notwithstanding any other provision of law, any planning product adopted by the Federal lead agency in accordance with this section shall not be reconsidered or made the subject of additional interagency consultation during the environmental review process of the project unless the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the adopted planning product. Any planning product adopted by the Federal lead agency in accordance with this section may be relied upon and used by other Federal agencies in carrying out reviews of the project.

(g) RULE OF CONSTRUCTION.—This section may not be construed to make the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to the transportation planning process conducted under chapter 52 of title 49. Initiation of the National Environmental Policy Act of 1969 process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the National Environmental Policy Act of 1969 process. This section may not be construed to affect the use of planning products in the National Environmental Policy Act of 1969 process pursuant to other authorities under law or to restrict the initiation of the National Environmental Policy Act of 1969 process during planning.

§ 168. Development of programmatic mitigation plans

(a) IN GENERAL.—As part of the statewide or metropolitan transportation planning process, a State or metropolitan planning organization may develop one or more programmatic mitigation plans to address the potential environmental impacts of future transportation projects.

(b) SCOPE.—

(1) SCALE.—A programmatic mitigation plan may be developed on a regional, ecosystem, watershed, or statewide scale.

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

(3) PROJECT IMPACTS.—The plan may address impacts from all projects in a defined geographic area or may focus on a specific type of project, such as bridge replacements.

(4) CONSULTATION.—The scope of the plan shall be determined by the State or metropolitan planning organization, as appropriate, in consultation with the agency or agencies with jurisdiction over the resources being addressed in the mitigation plan.

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

(1) an assessment of the condition of environmental resources in the geographic area covered by the plan, including an assessment of recent trends and any potential threats to those resources;

(2) an assessment of potential opportunities to improve the overall quality of environmental resources in the geographic area covered by the plan, through strategic mitigation for impacts of transportation projects;

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

(4) parameters for determining appropriate mitigation for certain types of impacts, such as mitigation ratios or criteria for determining appropriate mitigation sites;

(5) adaptive management procedures, such as protocols that involve monitoring predicted impacts over time and adjusting mitigation measures in response to information gathered through the monitoring; and

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

(d) PROCESS.—Before adopting a programmatic mitigation plan, a State or metropolitan planning organization shall—

(1) consult with the agency or agencies with jurisdiction over the environmental resources considered in the programmatic mitigation plan;

(2) make a draft of the plan available for review and comment by applicable environmental resource agencies and the public;

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

(4) address such comments in the final plan.

(e) INTEGRATION WITH OTHER PLANS.—A programmatic mitigation plan may be integrated with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, and land use plans.

(f) CONSIDERATION IN PROJECT DEVELOPMENT AND PERMITTING.—If a programmatic mitigation plan has been developed pursuant to this section, any Federal agency responsible for environmental reviews, permits, or approvals for a transportation project shall give substantial weight to the recommendations in a programmatic mitigation plan when carrying out their responsibilities under applicable laws.

(g) PRESERVATION OF EXISTING AUTHORITIES.—Nothing in this section limits the use of programmatic approaches to reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

* * * * * * *

CHAPTER 2—OTHER HIGHWAYS

Sec.
[201. Authorizations.
[202. Allocations.
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[214. Public lands development roads and trails.]
* * * * * * *
[216. Darien Gap Highway.]
* * * * * * *

[§ 201. Authorizations

[The provision of this title shall apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations heretofore made, providing for the expenditure of Federal funds on the following classes of highways: Forest highways, forest development roads and trails, park road, parkways, Indian reservation roads, refuge roads, public lands highways, and defense access roads. All such authorizations and appropriations shall continue in full force and effect, but hereafter obligations entered into and expenditures made pursuant thereto shall be subject to the provisions of this title.

[§ 202. Allocations

[(a) ALLOCATION BASED ON NEED.—

[(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

[(2) PLANNING.—The allocation under paragraph (1) shall be consistent with the renewable resource and land use planning for the various national forests.

(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

[(1) PUBLIC LANDS HIGHWAYS.—

[(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 34 percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

[(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

[(2) FOREST HIGHWAYS.—

[(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66 percent of the funds authorized to be appropriated for public lands highways for forest

highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

[(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

[(i) renewable resource and land use planning; and

[(ii) assessments of the impact of that planning on transportation facilities.

[(c) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for park roads and parkways each according to the relative needs of the various elements of the national park system, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation facilities.

[(d) INDIAN RESERVATION ROADS.—

[(1) FOR FISCAL YEARS ENDING BEFORE OCTOBER 1, 1999.—On October 1 of each fiscal year ending before October 1, 1999, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.

[(2) FISCAL YEAR 2000 AND THEREAFTER.—

[(A) IN GENERAL.—All funds authorized to be appropriated for Indian reservation roads shall be allocated among Indian tribes for fiscal year 2000 and each subsequent fiscal year in accordance with a formula established by the Secretary of the Interior under a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5.

[(B) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall issue regulations governing the Indian reservation roads program, and establishing the funding formula for fiscal year 2000 and each subsequent fiscal year under this paragraph, in accordance with a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5. The regulations shall be issued in final form not later than April 1, 1999, and shall take effect not later than October 1, 1999.

[(C) NEGOTIATED RULEMAKING COMMITTEE.—In establishing a negotiated rulemaking committee to carry out subparagraph (B), the Secretary of the Interior shall—

[(i) apply the procedures under subchapter III of chapter 5 of title 5 in a manner that reflects the unique government-to-government relationship between the Indian tribes and the United States; and

[(ii) ensure that the membership of the committee includes only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes.

[(D) BASIS FOR FUNDING FORMULA.—The funding formula established for fiscal year 2000 and each subsequent fiscal year under this paragraph shall be based on factors that reflect—

[(i) the relative needs of the Indian tribes, and reservation or tribal communities, for transportation assistance; and

[(ii) the relative administrative capacities of, and challenges faced by, various Indian tribes, including the cost of road construction in each Bureau of Indian Affairs area, geographic isolation and difficulty in maintaining all-weather access to employment, commerce, health, safety, and educational resources.

[(E) TRANSFERRED FUNDS.—

[(i) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula for distribution of funds under the Indian reservation roads program.

[(ii) USE OF FUNDS.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.

[(F) ADMINISTRATIVE EXPENSES.—

[(i) IN GENERAL.—Of the funds authorized to be appropriated for Indian reservation roads, $20,000,000 for fiscal year 2006, $22,000,000 for fiscal year 2007, $24,500,000 for fiscal year 2008, and $27,000,000 for fiscal year 2009 may be used by the Secretary of the Interior for program management and oversight and project- related administrative expenses.

[(ii) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available for Indian reservation roads under the Transportation Equity Act for the 21st Century (Public Law 105-178) and SAFETEA-LU through a contract or agreement under the Indian Self- Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribal government—

[(I) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

[(II) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

[(III) provides a copy of the certification under subclause (I) to the Deputy Assistant Secretary for

Tribal Government Affairs or the Assistant Secretary for Indian Affairs, as appropriate.

[(G) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

[(i) IN GENERAL.—Not later than 2 years after the date of enactment of the SAFETEA-LU, the Secretary, in cooperation with the Secretary of the Interior, shall complete a comprehensive national inventory of transportation facilities that are eligible for assistance under the Indian reservation roads program.

[(ii) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the Indian reservation roads program that a tribe has requested, including facilities that—

[(I) were included in the Bureau of Indian Affairs system inventory for funding formula purposes in 1992 or any subsequent fiscal year;

[(II) were constructed or reconstructed with funds from the Highway Trust Funds (other than the Mass Transit Account) under the Indian reservation roads program since 1983;

[(III) are owned by an Indian tribal government; or

[(IV) are community streets or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or

[(V) 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 termini, such as airports, harbors, or boat landings.

[(iii) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this subparagraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.

[(iv) ADDITIONAL FACILITIES.—Nothing in this subparagraph shall preclude the Secretary from including additional transportation facilities that are eligible for funding under the Indian reservation roads 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.

[(v) REPORT TO CONGRESS.—Not later than 90 days after the date of completion of the inventory under

this subparagraph, the Secretary shall prepare and submit a report to Congress that includes the data gathered and the results of the inventory.

[(3) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

[(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available under this chapter and section 125(e) for Indian reservation roads and for highway bridges located on Indian reservation roads to pay for the costs of programs, services, functions, and activities, or portions thereof, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any highway, road, bridge, parkway, or transit facility that provides access to or is located within the reservation or community of an Indian tribe shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with the Indian Self-Determination and Education Assistance Act.

[(B) EXCLUSION OF AGENCY PARTICIPATION.—Funds for programs, functions, services, or activities, or portions thereof, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A) without regard to the organizational level at which the Department of the Interior that has previously carried out such programs, functions, services, or activities.

[(4) RESERVATION OF FUNDS.—

[(A) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

[(B) FUNDING.—

[(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $14,000,000 for each of fiscal years 2005 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

[(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if such funds were apportioned under chapter 1.

[(C) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

[(i) have an opening of 20 feet or more;

[(ii) be on an Indian reservation road;

[(iii) be structurally deficient or functionally obsolete; and

[(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

[(D) APPROVAL REQUIREMENT.—

[(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

[(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering after approval of applicable plans, specifications, and estimates in accordance with this title.

[(5) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

[(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a highway, road, bridge, parkway, or transit facility program or project that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

[(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the Federal lands highway programs, the programs, functions, services, or activities involved.

[(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

[(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a highway, road, bridge, parkway, or transit program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

[(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subpara-

graph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

[(F) ELIGIBILITY.—

[(i) IN GENERAL.—Subject to clause (ii), funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

[(ii) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribal government self-determination contracts or self- governance funding agreements with any Federal agency during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability for purposes of clause (i).

[(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

[(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

[(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolutions and ap-

peal procedures authorized by such Act, including regulations issued to carry out such Act.

[(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

[(e) REFUGE ROADS.—On October 1 of each fiscal year, the Secretary shall allocate the sums made available for that fiscal year for refuge roads according to the relative needs of the various refuges in the National Wildlife Refuge System, and taking into consideration—

[(1) the comprehensive conservation plan for each refuge;

[(2) the need for access as identified through land use planning; and

[(3) the impact of land use planning on existing transportation facilities.

[§ 203. Availability of funds

[Funds authorized for forest development roads and trails, public lands development roads and trails, park road, parkways, refuge roads, Indian reservation roads, and public lands highways shall be available for contract upon apportionment, or on October 1, of the fiscal year for which authorized if no apportionment is required. Any amount remaining unexpended for a period of three years after the close of the fiscal year for which authorized shall lapse. The Secretary of the Department charged with the administration of such funds is granted authority to incur obligations, approve projects, and enter into contracts under such authorizations and his action in doing so shall be deemed a contractual obligation of the United States for the payment of the cost thereof and such funds shall be deemed to have been expended when so obligated. Any funds heretofore or hereafter authorized for any fiscal year for forest development roads and trails, public lands development roads and trails, park road, parkways, refuge roads, Indian roads, and public lands highways shall be deemed to have been expended if a sum equal to the total of the sums authorized for such fiscal year and previous fiscal years since and including the fiscal year ending June 30, 1955, shall have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated authorizations and be immediately available for expenditure. Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to pay the Federal share of the cost of the project.

[§ 204. Federal Lands Highways Program

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, refuge roads, and Indian reservation roads and bridges.

[(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

[(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

[(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

[(A) shall be developed in cooperation with States and metropolitan planning organizations; and

[(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

[(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

[(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.

[(b) USE OF FUNDS.—

[(1) IN GENERAL.—Funds made available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of—

[(A) transportation planning, research, and engineering and construction of, highways, roads, parkways, and transit facilities located on public lands, national parks, and Indian reservations; and

[(B) operation and maintenance of transit facilities located on public lands, national parks, and Indian reservations.

[(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to such activity with—

[(A) a State (including a political subdivision of a State); or

[(B) an Indian tribe.

[(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

[(A) Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

[(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

[(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

[(5) AVAILABILITY OF FUNDS.—Funds made available under this section for each class of Federal lands highways shall be available for any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highways.

[(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation roads program to finance Indian technical centers under section 504(b).

[(c) Before approving as a project on an Indian reservation road any project eligible for funds apportioned under section 104 or section 144 of this title in a State, the Secretary must determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads, of a fair and equitable share of funds apportioned to such State under section 104 of this title. Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent of the funds allocated to an Indian tribe may be expended for the purpose of maintenance, excluding road sealing which shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

[(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

[(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the appropriate Federal land management agency shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the "Buy Indian" Act of June 25, 1910 (36 Stat. 891), and the provisions of section 7(b) of the Indian Self-Determination and Education Assist-

ance Act (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior which are appropriated for the construction and improvement of Indian reservation roads.

[(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

[(g) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

[(h) ELIGIBLE PROJECTS.—Funds available for each class of Federal lands highways may be available for the following:

[(1) Transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

[(2) Adjacent vehicular parking areas.

[(3) Interpretive signage.

[(4) Acquisition of necessary scenic easements and scenic or historic sites.

[(5) Provision for pedestrians and bicycles.

[(6) Construction and reconstruction of roadside rest areas including sanitary and water facilities.

[(7) Other appropriate public road facilities such as visitor centers as determined by the Secretary.

[(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.

[(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

[(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

[(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section.

[(j) INDIAN RESERVATION ROADS PLANNING.—Up to 2 percent of funds made available for Indian reservation roads for each fiscal year shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a). Projects shall be selected by the Indian tribal government from the transpor-

tation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.

[(k) REFUGE ROADS.—

[(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for refuge roads shall be used by the Secretary and the Secretary of the Interior only to pay the cost of—

[(A) maintenance and improvements of refuge roads;

[(B) maintenance and improvements of eligible projects described in paragraphs (2), (3), (5), and (6) of subsection (h) that are located in or adjacent to wildlife refuges;

[(C) administrative costs associated with such maintenance and improvements;

[(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

[(E) maintenance and improvement of recreational trails; except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year.

[(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the Interior, as appropriate, may enter into contracts with a State or civil subdivision of a State or Indian tribe as is determined advisable.

[(3) COMPLIANCE WITH OTHER LAW.—Funds made available for refuge roads shall be used only for projects that are in compliance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

[(l) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

[(1) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

[(A) Indian reservation roads; and

[(B) roads providing access to Indian reservation roads.

[(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

[(A) shall be negotiated between the State and the Indian tribe; and

[(B) shall not require the approval of the Secretary.

[(3) ANNUAL REPORT.—Effective beginning with fiscal year 2005, the Secretary shall prepare and submit to Congress an annual report that identifies—

[(A) the Indian tribes and States that have entered into agreements under paragraph (1);

[(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

[(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).]

§ 201. General provisions

(a) PURPOSE.—Recognizing the need for all Federal lands transportation facilities and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public road and transit facilities con-

structed with Federal assistance, the Secretary, in consultation with the Secretary of each Federal land management agency, shall establish and coordinate, in accordance with the requirements of this section, a uniform policy for all transportation facilities constructed under a covered program.

(b) COVERED PROGRAM DEFINED.—In this section, the term "covered program" means—

(1) the tribal transportation program established under section 202; and

(2) the Federal lands transportation program established under section 203.

(c) AVAILABILITY OF FUNDS.—

(1) AVAILABILITY.—Funds made available to carry out a covered program shall be available for contract—

(A) upon apportionment; or

(B) if no apportionment is required, on October 1 of the fiscal year for which authorized.

(2) PERIOD OF AVAILABILITY.—Funds apportioned or allocated to carry out a covered program shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

(3) AUTHORITY OF DEPARTMENT SECRETARIES.—

(A) AUTHORITY TO INCUR OBLIGATIONS, APPROVE PROJECTS, AND ENTER INTO CONTRACTS.—The Secretary of a Department charged with the administration of funds made available to carry out a covered program may incur obligations, approve projects, and enter into contracts with respect to such funds.

(B) CONTRACTUAL OBLIGATIONS.—A Secretary's action under subparagraph (A) shall be deemed to be a contractual obligation of the United States to pay the cost thereof, and the funds subject to the action shall be deemed to have been expended when so obligated.

(4) EXPENDITURE.—Any funds made available to carry out a covered program for a fiscal year shall be deemed to have been expended if a sum equal to the total of the sums appropriated for the fiscal year and previous fiscal years have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated appropriations and be immediately available for expenditure.

(5) AUTHORITY OF SECRETARY.—

(A) OBLIGATING FUNDS FOR COVERED PROGRAMS.—Notwithstanding any other provision of law, either of the following actions shall be deemed to constitute a contractual obligation of the United States to pay the total eligible cost of any construction project funded under a covered program:

(i) The authorization by the Secretary, or the Secretary of a Department charged with the administration of funds made available to carry out a covered program, of engineering and related work for the development, design, and acquisition associated with the

project, whether performed by contract or agreement authorized by law.

(ii) The approval by the Secretary, or the Secretary of a Department charged with the administration of funds made available to carry out a covered program, of plans, specifications, and estimates for the project.

(B) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed to affect the application of the Federal share associated with a project undertaken under a covered program or to modify the point of obligation associated with Federal salaries and expenses.

(6) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—To the extent that the Secretary is otherwise required to redistribute unused obligation authority appropriated for purposes other than section 202, a minimum of 10 percent of such unused obligation authority shall be allocated and distributed by the Secretary to entities eligible to receive funds under such section for purposes of funding competitively awarded high priority projects ensuring greater safe access to markets for American Indian and Alaska Native communities that are, relative to other American Indian and Alaska Native communities, more remotely located from product and essential service markets.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the Federal share payable on account of a project carried out under a covered program shall be 100 percent of the total cost of the project.

(2) OPERATING ASSISTANCE.—The Federal share payable, with amounts made available to carry out this chapter, on account of operating expenses for a project carried out under the Federal lands transportation program established under section 203 may not exceed 50 percent of the net operating costs, as determined by the Secretary.

(e) TRANSPORTATION PLANNING.—

(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each Federal land management agency, the Secretary shall implement transportation planning procedures for tribal transportation facilities and Federal lands transportation facilities that are consistent with the planning processes required under sections 5203 and 5204 of title 49.

(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program developed as a part of the transportation planning process under this subsection shall be subject to approval by the Secretary, acting in coordination with the Secretary of the appropriate Federal land management agency.

(3) INCLUSION IN OTHER PLANS.—Any project under a covered program that is regionally significant shall—

(A) be developed in cooperation with appropriate States and metropolitan planning organizations; and

(B) be included in—

(i) plans for the covered program;

(ii) appropriate State and metropolitan long-range transportation plans; and

(iii) appropriate State and metropolitan transportation improvement programs.

(4) INCLUSION IN STATE PROGRAMS.—A transportation improvement program that is approved by the Secretary as a part of the transportation planning process under this subsection shall be included in appropriate plans and programs of States and metropolitan planning organizations without further action on the transportation improvement program.

(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each Federal land management agency, to the extent appropriate, shall have in effect safety, bridge, pavement, and congestion management systems in support of asset management for highways funded under a covered program.

(6) DATA COLLECTION.—

(A) IN GENERAL.—The Secretary of each Federal land management agency shall collect and report on the data that is necessary to implement a covered program, including at a minimum—

(i) inventory and condition information on tribal roads and Federal lands highways; and

(ii) bridge inspection and inventory information on any Federal bridge that is open to the public.

(B) STANDARDS.—The Secretary, in coordination with the Secretary of each Federal land management agency, shall define collection and reporting data standards for purposes of subparagraph (A).

(C) TRIBAL TRANSPORTATION PROGRAM.—Each Secretary collecting data under this paragraph relating to the tribal transportation program established under section 202 shall collect such data consistent with the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(7) ADMINISTRATIVE EXPENSES.—The Secretary may use up to 5 percent of the funds made available to carry out section 203 for a fiscal year for purposes of implementing the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies.

(f) REFERENCES TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—In this chapter, the term "Secretary", when used in connection with a Federal land management agency, means the Secretary of the department that contains the agency.

§ 202. Tribal transportation program

(a) IN GENERAL.—The Secretary shall carry out a tribal transportation program in accordance with the requirements of this section.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available to carry out the tribal transportation program shall be used by the Secretary and the Secretary of the Interior to pay for the following:

(A) The covered costs of—

(i) tribal roads;

(ii) vehicular parking areas adjacent to tribal roads (which may include electric vehicle charging stations);

(iii) pedestrian walkways and bicycle transportation facilities (as defined in section 217) on tribal lands; and

(iv) roadside rest areas, including sanitary and water facilities, on tribal lands.

(B) The costs of transportation projects eligible for assistance under this title that are within, or provide access to, tribal lands.

(C) The costs of public transportation projects eligible for assistance under section 5311(b)(1) of title 49 that are within, or provide access to, tribal lands (without regard to whether the project is located in an urbanized area).

(D) The costs of rehabilitation, restoration, and construction of interpretive signage at tribal roads.

(E) The costs of acquisition of necessary scenic easements and scenic or historic sites associated with tribal roads.

(2) COVERED COSTS DEFINED.—In paragraph (1), the term "covered costs" means the costs of transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction.

(3) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the Interior may enter into a contract or other appropriate agreement with respect to such activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(4) INDIAN LABOR.—Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1).

(5) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall apply to construction or improvement of tribal transportation facilities.

(6) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—Of the funds made available to carry out the tribal transportation program for a fiscal year, up to 5 percent may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative expenses.

(B) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the tribal transportation program to fund tribal technical assistance centers under section 504(b).

(7) MAINTENANCE.—

(A) USE OF FUNDS.—Notwithstanding any other provision of this title, of the funds allocated to an Indian tribe under the tribal transportation program for a fiscal year, the Indian tribe, or the Secretary with the consent of the affected Indian tribe, may use for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation) an amount that does not exceed the greater of—

(i) 25 percent of the funds; or

(ii) $500,000.

(B) ROAD MAINTENANCE PROGRAMS ON INDIAN RESERVATIONS.—

(i) BIA RESPONSIBILITY.—The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.

(ii) FUNDING.—The Secretary of the Interior shall ensure that funding made available under this paragraph for maintenance of tribal transportation facilities for a fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

(C) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

(i) AUTHORITY TO ENTER INTO AGREEMENTS.—An Indian tribe and a State may enter into a road maintenance agreement under which the Indian tribe assumes the responsibilities of the State for tribal transportation facilities.

(ii) NEGOTIATIONS.—Agreements entered into under clause (i)—

(I) shall be negotiated between the State and the Indian tribe; and

(II) shall not require the approval of the Secretary.

(8) COOPERATION OF STATES AND COUNTIES.—

(A) IN GENERAL.—The cooperation of States, counties, and other political subdivisions of States may be accepted in construction and improvement of tribal transportation facilities.

(B) CREDITING OF FUNDS.—Any funds received from a State, county, or other political subdivision of a State for construction or improvement of tribal transportation facilities shall be credited to appropriations available for the tribal transportation program.

(C) STATE USE OF FEDERAL FUNDS FOR TRIBAL TRANSPORTATION FACILITIES.—

(i) IN GENERAL.—A State may provide a portion of Federal funds apportioned to the State under chapter 1 to an Indian tribe for an eligible tribal transportation facility.

(ii) PROCEDURE.—If a State elects to provide funds to an Indian tribe under clause (i), the State shall transfer the funds back to the Secretary and the Secretary shall transfer the funds to the Indian tribe constructing or maintaining the eligible tribal transportation facility under an agreement pursuant to this paragraph.

(iii) CONSTRUCTION RESPONSIBILITY.—Notwithstanding any other provision of law, if a State provides funds referred to in clause (i) to an Indian tribe—

(I) the State shall not be responsible for constructing or maintaining a project carried out using the funds or for administering or supervising the project or funds during the applicable

statute of limitations period of such State with respect to actions related to the construction of the project; and

(II) the Indian tribe receiving the funds shall be responsible for constructing and maintaining a project carried out using the funds and for administering and supervising the project and funds in accordance with this section during the period referred to in subclause (I).

(9) COMPETITIVE BIDDING.—

(A) IN GENERAL.—Construction of a project under the tribal transportation program shall be performed pursuant to a contract awarded by competitive bidding or other procurement process authorized under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) unless the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, some other method is in the public interest.

(B) APPLICABILITY OF OTHER LAWS.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (36 Stat. 861; known as the Buy Indian Act) and section 7(b) of the Indian Self-Determination and Education Assistance Act (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal roads.

(c) FUNDS DISTRIBUTION.—

(1) IN GENERAL.—All funds authorized to be appropriated for the tribal transportation program shall be allocated among Indian tribes in accordance with the formula maintained by the Secretary of the Interior under paragraph (4).

(2) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

(A) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program. The Secretary of the Interior, in cooperation with the Secretary, by September 30, 2012, and by September 30 of every second year thereafter, shall accept into the comprehensive national inventory those tribal transportation facilities proposed by Indian tribes under the regulations.

(B) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include in the comprehensive national inventory, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that a tribe has requested, including facilities that—

(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;

(ii) are owned by an Indian tribal government;

(iii) are owned by the Bureau of Indian Affairs;

(iv) were constructed or reconstructed with funds from the Highway Trust Fund under the Indian reservation roads program since 1983;

(v) are community streets or bridges within the exterior boundary of Indian reservations, Alaska native villages, or other recognized Indian communities (including communities in former Indian reservations in Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or

(vi) 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 shall preclude the Secretary of the Interior from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

(E) BRIDGES.—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 151.

(3) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain regulations governing the tribal transportation program and the funding formula under paragraph (4) in accordance with established policies and procedures.

(4) BASIS FOR FUNDING FORMULA FACTORS.—

(A) IN GENERAL.—The funding formula established under this paragraph shall be based on factors that reflect—

(i) the relative needs among the Indian tribes, and reservation or tribal communities, for transportation assistance; and

(ii) the relative administration capacities of, and challenges faced by, various Indian tribes, including the cost of road construction in each Bureau of Indian Affairs area, geographic isolation, and difficulty in maintaining all-weather access to employment, commerce, health, safety, and educational resources.

(B) TRIBAL HIGH PRIORITY PROJECTS.—The tribal high priority projects program as included in the tribal transportation allocation methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the American Energy and Infrastructure Jobs Act of 2012), shall continue in effect.

(5) DISTRIBUTION OF FUNDS TO INDIAN TRIBES.—

(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary or the Secretary of the Interior for a fiscal year to carry out the

tribal transportation program, the funds shall be distributed to, and available for immediate use by, eligible Indian tribes in accordance with the formula maintained by the Secretary of the Interior under paragraph (4).

(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.

(6) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates for, and may commence, a project for construction of a tribal transportation facility with funds made available to carry out the tribal transportation program through a contract or agreement entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) if the Indian tribal government—

(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

(B) obtains the advance review of the plans and specifications for the project from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards;

(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs of the Department of Transportation or the Assistant Secretary of Indian Affairs of the Department of the Interior, as appropriate; and

(D) except with respect to a transportation facility owned by the Bureau of Indian Affairs or an Indian tribe, obtains the advance written approval of the plans, specifications, and estimates from the facility owner or public authority having maintenance responsibility for the facility and provides a copy of the approval to the officials referred to in subparagraph (C).

(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES FOR PROGRAM COSTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions thereof, that are specifically or functionally related to the cost of any tribal transportation facility that provides access to or is located within the reservation or community of an Indian tribe shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(B) EXCLUSION OF AGENCY PARTICIPATION.—Funds for programs, functions, services, or activities, or portions thereof (including supportive administrative functions that

are otherwise contractible to which subparagraph (A) applies) shall be paid in accordance with subparagraph (A) without regard to the organizational level at which the Department of Transportation or the Department of the Interior has previously carried out such programs, functions, services, or activities.

(8) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES FOR TRIBAL TRANSPORTATION FACILITY PROGRAMS AND PROJECTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this title or chapter 53 of title 49 for a tribal transportation facility program or project that is located on an Indian reservation or provides access to the reservation or a community of an Indian tribe shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts, agreements, and grants for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out, the programs, functions, services, or activities involved.

(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government in accordance with and governed by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

(F) ELIGIBILITY.—

(i) IN GENERAL.—Subject to clause (ii), funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting the funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is made.

(ii) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.—If an Indian tribal government did not have an uncorrected significant and material audit exception in a required annual audit of the Indian tribal government's self-determination contracts or self-governance funding agreements with a Federal agency during the 3-fiscal year period referred in clause (i), the Indian tribe shall be treated as having conclusive evidence of its financial stability and financial management capability for purposes of clause (i).

(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary or the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary or the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolutions and appeal procedures authorized by such Act, including regulations issued to carry out such Act.

(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

(d) PLANNING BY INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—Of the funds made available for a fiscal year to carry out the tribal transportation program, the greater of 2 percent or $35,000 may be allocated to Indian tribal governments that have been authorized to conduct transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(2) COOPERATION.—An Indian tribal government described in paragraph (1), in cooperation with the Secretary of the Interior, and as appropriate with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(e).

(3) APPROVAL.—Projects selected by an Indian tribal government described in paragraph (1) from a transportation improvement program shall be subject to the approval of the Secretary of the Interior and the Secretary.

(e) FEDERAL-AID ELIGIBLE PROJECT.—Before approving as a project on a tribal transportation facility any project eligible funds apportioned under section 104 in a State, the Secretary shall determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on tribal transportation facilities, of a fair and equitable share of funds apportioned to such State under section 104.

(f) ELIGIBILITY FOR DISCRETIONARY AND COMPETITIVE GRANTS.—Notwithstanding any other provision of law, an Indian tribe may directly apply for and receive any discretionary or competitive grant made available to a State or a political subdivision of a State under this title or chapter 53 of title 49 in the same manner and under the same circumstances as a State or a political subdivision of a State.

§ 203. Federal lands transportation program

(a) IN GENERAL.—The Secretary shall carry out a Federal lands transportation program in accordance with the requirements of this section.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available to carry out the Federal lands transportation program shall be used by the Secretary and the Secretaries of Federal land management agencies to pay for the following:

(A) The covered costs of—

(i) Federal lands highways;

(ii) vehicular parking areas adjacent to Federal lands highways (which may include electric vehicle charging stations);

(iii) pedestrian walkways and bicycle transportation facilities (as defined in section 217) on Federal lands; and

(iv) roadside rest areas, including sanitary and water facilities, on Federal lands.

(B) The costs of transportation projects on public roads or trails eligible for assistance under this title that are within, or provide access to, Federal lands.

(C) The costs of public transportation projects eligible for assistance under section 5311(b)(1) of title 49 that are with-

in, or provide access to, Federal lands (without regard to whether the project is located in an urbanized area).

(D) The costs of rehabilitation, restoration, and construction of interpretive signage at Federal lands highways.

(E) The costs of acquisition of necessary scenic easements and scenic or historic sites associated with Federal lands highways.

(2) COVERED COSTS DEFINED.—In paragraph (1), the term "covered costs" means the costs of program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction.

(3) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to such activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(4) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land management agency.

(5) COOPERATION.—

(A) IN GENERAL.—The cooperation of States and political subdivisions of States may be accepted in construction and improvement of Federal lands transportation facilities.

(B) CREDITING OF FUNDS.—Any funds received from a State or a political subdivision of a State for such construction or improvement of Federal lands transportation facilities shall be credited to appropriations available for the class of Federal lands transportation facilities to which funds were contributed.

(6) COMPETITIVE BIDDING.—Construction of a project under the Federal lands transportation program shall be performed pursuant to a contract awarded by competitive bidding unless the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, some other method is in the public interest.

(c) AGENCY PROGRAM DISTRIBUTIONS.—

(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate the funds made available to carry out the Federal lands transportation program for the fiscal year on the basis of applications of need, as determined by the Secretary, and in coordination with the transportation plans required by section 201(e), of the respective transportation systems of the Federal land management agencies.

(2) MINIMUM ALLOCATIONS.—When making an allocation of funds under paragraph (1) for a fiscal year, the Secretary shall ensure that, of the total amount of funds subject to the allocation—

(A) the National Park Service receives, at a minimum, 38 percent;

(B) the Forest Service receives, at a minimum, 32 percent; and

(C) the United States Fish and Wildlife Service receives, at a minimum, 4.5 percent.

(3) APPLICATIONS.—

(A) IN GENERAL.—The Secretary of a Federal land management agency may submit to the Secretary an application for assistance under the Federal lands transportation program.

(B) CONTENTS.—An application submitted by the Secretary of a Federal land management agency under subparagraph (A) shall contain such information as the Secretary may require, including a description of any proposed program for which the agency is seeking assistance and the potential funding levels for the program.

(C) CONSIDERATIONS.—In reviewing a proposed program described in an application submitted by the Secretary of a Federal land management agency under subparagraph (A), the Secretary shall consider the extent to which the program supports—

(i) a state of good repair of transportation facilities across the agency's inventory;

(ii) a reduction of deficient bridges across the agency's inventory;

(iii) improvement of safety across the agency's inventory;

(iv) high use Federal recreation sites or Federal economic generators; and

(v) the resource management goals of the Secretary of the respective Federal land management agency.

(d) NATIONAL FEDERAL LANDS HIGHWAYS INVENTORY.—

(1) IN GENERAL.—The Secretaries of the Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of Federal lands highways.

(2) HIGHWAYS INCLUDED IN THE INVENTORY.—For purposes of identifying the Federal lands transportation system and determining the relative transportation needs among Federal land management agencies, the inventory shall include, at a minimum, highways that—

(A) provide access to high use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the Secretaries of the Federal land management agencies; and

(B) are administered by a Federal land management agency.

(3) AVAILABILITY.—The Secretary of each Federal land management agency shall maintain an inventory of the Federal lands highways administered by the agency and make the inventory available to the Secretary.

(4) UPDATES.—The Secretary of each Federal land management agency shall update its inventory referred to in paragraph (3) as determined by the Secretary.

(5) REVIEW.—A decision to add or remove a highway from an inventory referred to in paragraph (1) or (4) shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

§ 205. Forest development roads and trails

(a) * * *

* * * * * * *

(d) Funds available for forest development roads and trails shall be available for adjacent vehicular parking areas *(which may include electric vehicle charging stations)* and for sanitary, water, and fire control facilities.

* * * * * * *

§ 207. Tribal transportation self-governance program

(a) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a program to be known as the tribal transportation self-governance program. The Secretary may delegate responsibilities for administration of the program as the Secretary determines appropriate.

(b) ELIGIBILITY.—

(1) IN GENERAL.—An Indian tribe shall be eligible to participate in the program if the Indian tribe—

(A) requests participation in the program by resolution or other official action by the governing body of the Indian tribe; and

(B) demonstrates, for the preceding 3 fiscal years, financial stability and financial management capability.

(2) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purposes of paragraph (1)(B), evidence that, during the preceding 3 fiscal years, an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

(c) COMPACTS.—

(1) COMPACT REQUIRED.—Upon the request of an eligible Indian tribe, and subject to the requirements of this section, the Secretary shall negotiate and enter into a written compact with the Indian tribe for the purpose of providing for the participation of the Indian tribe in the program.

(2) CONTENTS.—A compact entered into under paragraph (1) shall set forth the general terms of the government-to-government relationship between the Indian tribe and the United States under the program and other terms that will continue to apply in future fiscal years.

(3) AMENDMENTS.—A compact entered into with an Indian tribe under paragraph (1) may be amended only by mutual agreement of the Indian tribe and the Secretary.

(d) ANNUAL FUNDING AGREEMENTS.—

(1) FUNDING AGREEMENT REQUIRED.—After entering into a compact with an Indian tribe under subsection (c), the Sec-

retary shall negotiate and enter into a written annual funding agreement with the Indian tribe.

(2) CONTENTS.—

(A) IN GENERAL.—

(i) DISCRETIONARY AND COMPETITIVE GRANTS.—A funding agreement entered into with an Indian tribe shall authorize the Indian tribe, as determined by the Indian tribe, to plan, conduct, consolidate, administer, and receive full tribal share funding and funding to tribes from discretionary and competitive grants administered by the Department for all programs, services, functions, and activities (or portions thereof) that are made available to Indian tribes to carry out tribal transportation programs and programs, services, functions, and activities (or portions thereof) administered by the Secretary that are otherwise available to Indian tribes.

(ii) TRANSFERS OF STATE FUNDS.—

(I) INCLUSION OF TRANSFERRED FUNDS IN FUNDING AGREEMENT.—A funding agreement entered into with an Indian tribe shall include Federal-aid funds apportioned to a State under chapter 1 if the State elects to provide a portion of such funds to the Indian tribe for a project eligible under section 202(b).

(II) METHOD FOR TRANSFERS.—If a State elects to provide funds described in subclause (I) to an Indian tribe, the State shall transfer the funds back to the Secretary and the Secretary shall transfer the funds to the Indian tribe in accordance with this section.

(III) RESPONSIBILITY FOR TRANSFERRED FUNDS.—Notwithstanding any other provision of law, if a State provides funds described in subclause (I) to an Indian tribe—

(aa) the State shall not be responsible for constructing or maintaining a project carried out using the funds or for administering or supervising the project or funds during the applicable statute of limitations period related to the construction of the project; and

(bb) the Indian tribe shall be responsible for constructing and maintaining a project carried out using the funds and for administering and supervising the project and funds in accordance with this section during the applicable statute of limitations period related to the construction of the project.

(B) ADMINISTRATION OF TRIBAL SHARES.—The tribal shares referred to in subparagraph (A) shall be provided without regard to the agency or office of the Department within which the program, service, function, or activity (or portion thereof) is performed.

(C) FLEXIBLE AND INNOVATIVE FINANCING.—

(i) IN GENERAL.—A funding agreement entered into with an Indian tribe under paragraph (1) shall include provisions pertaining to flexible and innovative financing if agreed upon by the parties.

(ii) TERMS AND CONDITIONS.—

(I) AUTHORITY TO ISSUE REGULATIONS.—The Secretary may issue regulations to establish the terms and conditions relating to the flexible and innovative financing provisions referred to in clause (i).

(II) TERMS AND CONDITIONS IN ABSENCE OF REGULATIONS.—If the Secretary does not issue regulations under subclause (I), the terms and conditions relating to the flexible and innovative financing provisions referred to in clause (i) shall be consistent with—

(aa) agreements entered into by the Department under section 202(c)(8) before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012; or

(bb) regulations of the Department of the Interior relating to flexible financing contained in part 170 of title 25, Code of Federal Regulations, as in effect on the date of enactment of such Act.

(3) DISCRETIONARY AND COMPETITIVE GRANTS.—Notwithstanding any other provision of law, an Indian tribe shall be eligible to directly apply for and receive the discretionary and competitive grants made available under transportation programs that States or political subdivisions of States are eligible to apply for and receive.

(4) TERMS.—A funding agreement shall set forth—

(A) terms that generally identify the programs, services, functions, and activities (or portions thereof) to be performed or administered by the Indian tribe; and

(B) for items identified in subparagraph (A)—

(i) the general budget category assigned;

(ii) the funds to be provided, including those funds to be provided on a recurring basis;

(iii) the time and method of transfer of the funds;

(iv) the responsibilities of the Secretary and the Indian tribe; and

(v) any other provision agreed to by the Indian tribe and the Secretary.

(5) SUBSEQUENT FUNDING AGREEMENTS.—

(A) APPLICABILITY OF EXISTING AGREEMENT.—Absent notification from an Indian tribe that the Indian tribe is withdrawing from or retroceding the operation of one or more programs, services, functions, or activities (or portions thereof) identified in a funding agreement, or unless otherwise agreed to by the parties, each funding agreement shall remain in full force and effect until a subsequent funding agreement is executed.

(B) EFFECTIVE DATE OF SUBSEQUENT AGREEMENT.—The terms of the subsequent funding agreement shall be retro-

active to the end of the term of the preceding funding agreement.

(6) CONSENT OF INDIAN TRIBE REQUIRED.—The Secretary shall not revise, amend, or require additional terms in a new or subsequent funding agreement without the consent of the Indian tribe that is subject to the agreement unless such terms are required by Federal law.

(e) GENERAL PROVISIONS.—

(1) REDESIGN AND CONSOLIDATION.—

(A) IN GENERAL.—An Indian tribe, in any manner that the Indian tribe considers to be in the best interest of the Indian community being served, may—

(i) redesign or consolidate programs, services, functions, and activities (or portions thereof) included in a funding agreement; and

(ii) reallocate or redirect funds for such programs, services, functions, and activities (or portions thereof), if the funds are—

(I) expended on projects identified in a transportation improvement program approved by the Secretary; and

(II) used in accordance with appropriations Acts and other applicable statutory limitations.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if, pursuant to subsection (d), an Indian tribe receives a discretionary or competitive grant from the Secretary or receives State apportioned funds, the Indian tribe shall use the funds for the purpose for which the funds were originally authorized.

(2) RETROCESSION.—

(A) IN GENERAL.—

(i) AUTHORITY OF INDIAN TRIBES.—An Indian tribe may retrocede (fully or partially) to the Secretary programs, services, functions, or activities (or portions thereof) included in a compact or funding agreement.

(ii) REASSUMPTION OF REMAINING FUNDS.—Following a retrocession described in clause (i), the Secretary may—

(I) reassume the remaining funding associated with the retroceded programs, functions, services, and activities (or portions thereof) included in the applicable compact or funding agreement;

(II) out of such remaining funds, transfer funds associated with Department of Interior programs, services, functions, or activities (or portions thereof) to the Secretary of the Interior to carry out transportation services provided by the Secretary of the Interior; and

(III) distribute funds not transferred under subclause (II) in accordance with applicable law.

(iii) CORRECTION OF PROGRAMS.—If the Secretary makes a finding under subsection (f)(2)(B) and no funds are available under subsection (f)(2)(A)(ii), the Secretary shall not be required to provide additional

funds to complete or correct any programs, functions, or activities (or portions thereof).

(B) EFFECTIVE DATE.—Unless the Indian tribe rescinds a request for retrocession, the retrocession shall become effective within the timeframe specified by the parties in the compact or funding agreement. In the absence of such a specification, the retrocession shall become effective on—

(i) the earlier of—

(I) 1 year after the date of submission of the request; or

(II) the date on which the funding agreement expires; or

(ii) such date as may be mutually agreed upon by the parties and, with respect to Department of the Interior programs, functions, services, and activities (or portions thereof), the Secretary of the Interior.

(f) PROVISIONS RELATING TO THE SECRETARY.—

(1) DECISIONMAKER.—A decision that constitutes a final agency action and relates to an appeal of the rejection of a final offer by the Department shall be made either—

(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

(B) by an administrative judge.

(2) TERMINATION OF COMPACT OR FUNDING AGREEMENT.—

(A) AUTHORITY TO TERMINATE.—

(i) PROVISION TO BE INCLUDED IN COMPACT OR FUNDING AGREEMENT.—A compact or funding agreement shall include a provision authorizing the Secretary, if the Secretary makes a finding described in subparagraph (B), to—

(I) terminate the compact or funding agreement (or a portion thereof); and

(II) reassume the remaining funding associated with the reassumed programs, functions, services, and activities included in the compact or funding agreement.

(ii) TRANSFERS OF FUNDS.—Out of any funds reassumed under clause (i)(II), the Secretary may transfer the funds associated with Department of the Interior programs, functions, services, and activities (or portions thereof) to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

(B) FINDINGS RESULTING IN TERMINATION.—The finding referred to in subparagraph (A) is a specific finding of—

(i) imminent jeopardy to a trust asset, natural resources, or public health and safety that is caused by an act or omission of the Indian tribe and that arises out of a failure to carry out the compact or funding agreement, as determined by the Secretary; or

(ii) gross mismanagement with respect to funds or programs transferred to the Indian tribe under the compact or funding agreement, as determined by the

Secretary in consultation with the Inspector General of the Department, as appropriate.

(C) PROHIBITION.—The Secretary shall not terminate a compact or funding agreement (or portion thereof) unless—

(i) the Secretary has first provided written notice and a hearing on the record to the Indian tribe that is subject to the compact or funding agreement; and

(ii) the Indian tribe has not taken corrective action to remedy the mismanagement of funds or programs or the imminent jeopardy to a trust asset, natural resource, or public health and safety.

(D) EXCEPTION.—

(i) IN GENERAL.—Notwithstanding subparagraph (C), the Secretary, upon written notification to an Indian tribe that is subject to a compact or funding agreement, may immediately terminate the compact or funding agreement (or portion thereof) if—

(I) the Secretary makes a finding of imminent substantial and irreparable jeopardy to a trust asset, natural resource, or public health and safety; and

(II) the jeopardy arises out of a failure to carry out the compact or funding agreement.

(ii) HEARINGS.—If the Secretary terminates a compact or funding agreement (or portion thereof) under clause (i), the Secretary shall provide the Indian tribe subject to the compact or agreement with a hearing on the record not later than 10 days after the date of such termination.

(E) BURDEN OF PROOF.—In any hearing or appeal involving a decision to terminate a compact or funding agreement (or portion thereof) under this paragraph, the Secretary shall have the burden of proof in demonstrating by clear and convincing evidence the validity of the grounds for the termination.

(g) COST PRINCIPLES.—In administering funds received under this section, an Indian tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as modified by section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j–1), other provisions of law, or by any exemptions to applicable Office of Management and Budget circulars subsequently granted by the Office of Management and Budget. No other audit or accounting standards shall be required by the Secretary. Any claim by the Federal Government against the Indian tribe relating to funds received under a funding agreement based on any audit conducted pursuant to this subsection shall be subject to the provisions of section 106(f) of such Act (25 U.S.C. 450j–1(f)).

(h) TRANSFER OF FUNDS.—The Secretary shall provide funds to an Indian tribe under a funding agreement in an amount equal to—

(1) the sum of the funding that the Indian tribe would otherwise receive for the program, function, service, or activity in accordance with a funding formula or other allocation method established under this title or chapter 53 of title 49; and

(2) such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

(i) CONSTRUCTION PROGRAMS.—

(1) STANDARDS.—Construction projects carried out under programs administered by an Indian tribe with funds transferred to the Indian tribe pursuant to a funding agreement entered into under this section shall be constructed pursuant to the construction program standards set forth in applicable regulations or as specifically approved by the Secretary (or the Secretary's designee).

(2) MONITORING.—Construction programs shall be monitored by the Secretary in accordance with applicable regulations.

(j) FACILITATION.—

(1) SECRETARIAL INTERPRETATION.—Except as otherwise provided by law, the Secretary shall interpret all Federal laws, Executive orders, and regulations in a manner that will facilitate—

(A) the inclusion of programs, services, functions, and activities (or portions thereof) and funds associated therewith, in compacts and funding agreements; and

(B) the implementation of the compacts and funding agreements.

(2) REGULATION WAIVER.—

(A) IN GENERAL.—An Indian tribe may submit to the Secretary a written request to waive application of a regulation promulgated under this section with respect to a compact or funding agreement. The request shall identify the regulation sought to be waived and the basis for the request.

(B) APPROVALS AND DENIALS.—

(i) IN GENERAL.—Not later than 90 days after the date of receipt of a written request under subparagraph (A), the Secretary shall approve or deny the request in writing.

(ii) DENIALS.—The Secretary may deny a request under clause (i) only if the Secretary finds that the identified language in the regulation may not be waived because the waiver is prohibited by Federal law.

(iii) DEEMED APPROVAL.—If the Secretary does not approve or deny a request submitted under subparagraph (A) on or before the last day of the 90-day period referred to in clause (i), the request shall be deemed approved.

(iv) FINALITY OF DECISIONS.—A decision by the Secretary under this subparagraph shall be final for the Department.

(k) DISCLAIMERS.—

(1) EXISTING AUTHORITY.—Notwithstanding any other provision of law, upon the election of an Indian tribe, the Secretary shall—

(A) maintain current Federal Highway Administration Indian reservation roads program and funding agreements; or

(B) enter into new agreements under the authority of section 202(c)(8).

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to impair or diminish the authority of the Secretary under section 202(c)(8).

(l) APPLICABILITY OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Except to the extent in conflict with this section (as determined by the Secretary), the following provisions of the Indian Self-Determination and Education Assistance Act shall apply to compact and funding agreements (except that references to the Secretary of the Interior in such provisions shall treated as a references to the Secretary of Transportation):

(1) Subsections (a), (b), (d), (g), and (h) of section 506 of such Act (25 U.S.C. 458aaa–5), relating to general provisions.

(2) Subsections (b) through (e) and (g) of section 507 of such Act (25 U.S.C.458aaa–6), relating to provisions relating to the Secretary of Health and Human Services.

(3) Subsections (a), (b), (d), (e), (g), (h), (i), and (k) of section 508 of such Act (25 U.S.C. 458aaa–7), relating to transfer of funds.

(4) Section 510 of such Act (25 U.S.C. 458aaa–9), relating to Federal procurement laws and regulations.

(5) Section 511 of such Act (25 U.S.C. 458aaa–10), relating to civil actions.

(6) Subsections (a)(1), (a)(2), and (c) through (f) of section 512 of such Act (25 U.S.C. 458aaa–11), relating to facilitation, except that subsection (c)(1) of that section shall be applied by substituting "transportation facilities and other facilities" for "school buildings, hospitals, and other facilities".

(7) Subsections (a) and (b) of section 515 of such Act (25 U.S.C. 458aaa–14), relating to disclaimers.

(8) Subsections (a) and (b) of section 516 of such Act (25 U.S.C. 458aaa–15), relating to application of title I provisions.

(9) Section 518 of such Act (25 U.S.C. 458aaa–17), relating to appeals.

(m) DEFINITIONS.—

(1) IN GENERAL.—In this section, the following definitions apply (except as otherwise expressly provided):

(A) COMPACT.—The term "compact" means a compact between the Secretary and an Indian tribe entered into under subsection (c).

(B) DEPARTMENT.—The term "Department" means the Department of Transportation.

(C) ELIGIBLE INDIAN TRIBE.—The term "eligible Indian tribe" means an Indian tribe that is eligible to participate in the program, as determined under subsection (b).

(D) FUNDING AGREEMENT.—The term "funding agreement" means a funding agreement between the Secretary and an Indian tribe entered into under subsection (d).

(E) INDIAN TRIBE.—The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a). In any case in which an Indian tribe has authorized an-

other Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this part, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this title). In such event, the term "Indian tribe" as used in this part shall include such other authorized Indian tribe, inter-tribal consortium, or tribal organization.

(F) PROGRAM.—The term "program" means the tribal transportation self-governance program established under this section.

(G) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(H) TRANSPORTATION PROGRAMS.—The term "transportation programs" means all programs administered or financed by the Department under this title and chapter 53 of title 49.

(2) APPLICABILITY OF OTHER DEFINITIONS.—In this section, the definitions set forth in sections 4 and 505 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b; 458aaa) apply, except as otherwise expressly provided in this section.

(n) REGULATIONS.—

(1) IN GENERAL.—

(A) PROMULGATION.—Not later than 90 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this section.

(B) PUBLICATION OF PROPOSED REGULATIONS.—Proposed regulations to implement this section shall be published in the Federal Register by the Secretary not later than 21 months after such date of enactment.

(C) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this paragraph shall expire 30 months after such date of enactment.

(D) EXTENSION OF DEADLINES.—A deadline set forth in subparagraph (B) or (C) may be extended up to 180 days if the negotiated rulemaking committee referred to in paragraph (2) concludes that the committee cannot meet the deadline and the Secretary so notifies the appropriate committees of Congress.

(2) COMMITTEE.—

(A) IN GENERAL.—A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this subsection shall have as its members only Federal and tribal government representatives, a majority of whom shall be nominated by and be representatives of Indian tribes with funding agreements under this title.

(B) REQUIREMENTS.—The committee shall confer with, and accommodate participation by, representatives of In-

dian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

(C) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

(3) EFFECT.—The lack of promulgated regulations shall not limit the effect of this section.

(4) EFFECT OF CIRCULARS, POLICIES, MANUALS, GUIDANCE, AND RULES.—Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Department of Transportation, except regulations promulgated under this section.

* * * * * * *

[§ 212. Inter-American Highway

[(a) Funds appropriated for the Inter-American Highway shall be used to enable the United States to cooperate with the Governments of the American Republics situated in Central America - that is, with the Governments of the Republic of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama - in the survey and construction of the Inter-American Highway within the borders of the aforesaid Republics, respectively. Not to exceed one-third of the appropriation authorized for each fiscal year may be expended without requiring the country or countries in which such funds may be expended to match any part thereof, if the Secretary of State shall find that the cost of constructing said highway in such country or countries will be beyond their reasonable capacity to bear. The remainder of such authorized appropriations shall be available for expenditure only when matched to the extent required by this section by the country in which such expenditure may be made. Expenditures from the funds available on a matching basis shall not be made for the survey and construction of any portion of said highway within the borders of any country named herein unless such country shall provide and make available for expenditure in conjunction therewith a sum equal to at least one-third of the expenditures that may be incurred by that Government and the United States on such portion of the highway. All expenditures by the United States under the provisions of this section for material, equipment, and supplies shall, whenever practicable, be made for products of the United States or of the country in which such survey or construction work is being carried on. Construction work to be performed under contract shall be advertised for a reasonable period by the Minister of Public Works, or other similar official, of the government concerned in each of the participating countries and contracts shall be awarded pursuant to such advertisements with the approval of the Secretary. No part of the appropriations authorized shall be available for obligation or expenditure for work on said highway in any cooperating country unless the government of said country shall have assented to the provisions of this section; shall have furnished satisfactory assurances that it has an organization adequately qualified to administer the functions required of

such country under the provisions hereof; and then only as such country may submit requests, from time to time, for the construction of any portion of the highway to standards adequate to meet present and future traffic needs. No part of said appropriations shall be available for obligation or expenditure in any such country until the government of that country shall have entered into an agreement with the United States which shall provide, in part, that said country—

[(1) will provide, without participation of funds authorized, all necessary rights-of-way for the construction of said highway, which rights-of-way shall be of a minimum width where practicable of one hundred meters in rural areas and fifty meters in municipalities and shall forever be held inviolate as a part of the highway for public use;

[(2) will not impose any highway toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of said highway constructed under the provisions of this section;

[(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of said highway by vehicles or persons from the United States that does not apply equally to vehicles or persons of such country;

[(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with the provisions of the Convention for the Regulation of Inter-American Automotive Traffic, which was opened for signature at the Pan American Union in Washington on December 15, 1943, and to which such country and the United States are parties, or of any other treaty or international convention establishing similar reciprocal recognition; and

[(5) will provide for the maintenance of said highway after its completion in condition adequately to serve the needs of present and future traffic.

[(b) The survey and construction work authorized by this section shall be under the administration of the Secretary, who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the American Republics named in subsection (a) of this section as may be required to carry out the purposes of this section shall be conducted through, or as authorized by, the Department of State.

[(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway construction or survey heretofore or hereafter undertaken in any of the countries enumerated in subsection (a) of this section, other than the expenditures authorized by the provisions of this section.

[(d) Appropriations made pursuant to any authorizations heretofore, or hereafter enacted for the Inter-American Highway shall be considered available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Inter-American Highway program.]

* * * * * * *

[§ 216. Darien Gap Highway

[(a) The United States shall cooperate with the Government of the Republic of Panama and with the Government of Colombia in the construction of approximately two hundred and fifty miles of highway in such countries in the location known as the "Darien Gap" to connect the Inter-American Highway authorized by section 212 of this title with the Pan American Highway System of South America. Such highway shall be known as the "Darien Gap Highway". Funds authorized by this section shall be obligated and expended subject to the same terms, conditions, and requirements with respect to the Darien Gap Highway as are funds authorized for the Inter-American Highway by subsection (a) of section 212 of this title.

[(b) The construction authorized by this section shall be under the administration of the Secretary, who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the Republic of Panama and Colombia as may be required to carry out the purposes of this section shall be conducted through, or authorized by, the Department of State.

[(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway survey or construction heretofore or hereafter undertaken in Panama or Colombia, other than the expenditures authorized by the provision of this section.

[(d) Appropriations made pursuant to any authorization for the Darien Gap Highway shall be available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Darien Gap Highway program.

[(e) For the purposes of this section the term "construction" does not include any costs of rights-of-way, relocation assistance, or the elimination of hazards of railway grade crossings.]

§ 217. Bicycle transportation and pedestrian walkways

(a) * * *

* * * * * * *

(c) USE OF [FEDERAL LANDS HIGHWAY] *TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM FUNDS* FUNDS.—[Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways] *Funds authorized for tribal transportation facilities and Federal lands transportation facilities* shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities.

[(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of

transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.]

[(e)] *(d)* BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, [then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations] *the State carrying out the rehabilitation or replacement is encouraged to provide such safe accommodations as part of the rehabilitation or replacement*.

[(f)] *(e)* FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

[(g)] *(f)* PLANNING AND DESIGN.—

(1) * * *

* * * * * * *

[(h)] *(g)* USE OF MOTORIZED VEHICLES.—Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for—

(1) * * *

* * * * * * *

[(i)] *(h)* TRANSPORTATION PURPOSE.—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

[(j)] *(i)* DEFINITIONS.—In this section, the following definitions apply:

(1) * * *

* * * * * * *

§ 218. Alaska Highway

(a) [Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to Haines, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended.] Notwithstanding any other provision of law[, in addition to such funds,] upon agreement with the State of Alaska, the Secretary is authorized to expend on [such highway or] the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum. Notwithstanding any other provision of law, any obligation limitation enacted for fiscal year 1983 or for any other fiscal year thereafter, including any portion of any other fiscal year thereafter, shall not apply to projects authorized by the preceding sentence. [No expenditures shall be made for the con-

struction of the portion of such highways that are in Canada until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

[(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;

[(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

[(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

[(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

[(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

[(b) The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.]

[(c)] *(b)* For purposes of this section, the term "Alaska Marine Highway System" includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.

* * * * * * *

CHAPTER 3—GENERAL PROVISIONS

Sec.
301. Freedom from tolls.
* * * * * * *
[303. Management systems.]
* * * * * * *
[309. Cooperation with other American Republics.]
* * * * * * *
[322. Magnetic levitation transportation technology deployment program.]
* * * * * * *
[327. Surface transportation project delivery pilot program.]
327. Surface transportation project delivery program.
* * * * * * *
330. Funding flexibility for transportation emergencies.
331. Program for eliminating duplication of environmental reviews.
332. State performance of legal sufficiency reviews.
* * * * * * *

[§ 303. Management systems

[(a) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations for State development, establishment, and implementation of a system for managing each of the following:

[(1) Highway pavement of Federal-aid highways.

[(2) Bridges on and off Federal-aid highways.
[(3) Highway safety.
[(4) Traffic congestion.
[(5) Public transportation facilities and equipment.
[(6) Intermodal transportation facilities and systems.

In metropolitan areas, such systems shall be developed and implemented in cooperation with metropolitan planning organizations. Such regulations may include a compliance schedule for development, establishment, and implementation of each such system and minimum standards for each such system.

[(b) TRAFFIC MONITORING.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment.

[(c) STATE ELECTION.—A State may elect, at any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election.

[(d) PROCEDURAL REQUIREMENTS.—In developing and implementing a management system under this section, each State shall cooperate with metropolitan planning organizations for urbanized areas of the State and affected agencies receiving assistance under chapter 53 of title 49 and shall consider the results of the management systems in making project selection decisions under this title and under chapter 53.

[(e) INTERMODAL REQUIREMENTS.—The management system required under this section for intermodal transportation facilities and systems shall provide for improvement and integration of all of a State's transportation systems and shall include methods of achieving the optimum yield from such systems, methods for increasing productivity in the State, methods for increasing use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

[(f) REPORTS.—

[(1) ANNUAL REPORTS.—Not later than January 1 of each calendar year beginning after December 31, 1992, the Secretary shall transmit to Congress a report on the progress being made by the Secretary and the States in carrying out this section.

[(2) REPORT ON IMPLEMENTATION.—Not later than October 1, 1996, the Comptroller General, in consultation with States, shall transmit to Congress a report on the management systems under this section, including recommendations as to whether, to what extent, and how the management systems should be implemented.

[(g) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned after September 30, 1991, under subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title for developing and establishing management systems required by this section and funds apportioned under section 144 of this title for developing and establishing the bridge management system required by this section.

[(h) REVIEW OF REGULATIONS.—Not later than 10 days after the date of issuance of any regulation under this section, the Secretary shall transmit a copy of such regulation to Congress for review.]

* * * * * * *

§ 306. Mapping

(a) IN GENERAL.—In carrying out the provisions of this title, the Secretary [may] *shall*, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

(b) GUIDANCE.—The Secretary shall issue guidance to encourage States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under this title. In carrying out this subsection, the Secretary shall recommend appropriate roles for [State and] *State government and* private mapping and surveying activities, including—

(1) * * *

* * * * * * *

(c) IMPLEMENTATION.—The Secretary shall develop a process for the oversight and monitoring, on an annual basis, of the compliance of each State with the guidance issued under subsection (b).

* * * * * * *

§ 308. Cooperation with Federal and State agencies and foreign countries

[(a) The Secretary is authorized to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Government agencies, cooperating foreign countries, and State cooperating agencies, and reimbursement for such services, which may include depreciation on engineering and roadbuilding equipment used, shall be credited to the appropriation concerned.]

(a) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—The Secretary may perform, by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Federal agencies, cooperating foreign countries, and State cooperating agencies.

(2) INCLUSIONS.—Services authorized under paragraph (1) may include activities authorized under section 214 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(3) REIMBURSEMENT.—Reimbursement for services carried out under this subsection, including depreciation on engineering and road-building equipment, shall be credited to the applicable appropriation.

* * * * * * *

[§ 309. Cooperation with other American Republics

[The President is authorized to utilize the services of the Federal Highway Administration in fulfilling the obligations of the United States under the Convention on the Pan-American Highway Between the United States and Other American Republics (51 Stat.

152), cooperating with several governments, members of the Organization of American States, in connection with the survey and construction of the Inter-American Highway, and for performing engineering service in the other American Republics for and upon the request of any agency or governmental corporation of the United States. To the extent authorized in appropriation acts, administrative funds available in accordance with subsection (a) of section 104 of this title shall be available annually for the purpose of this section.**]**

* * * * * * *

§ 313. Buy America

(a) * * *

* * * * * * *

(g) APPLICATION.—The requirements of this section apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this title.

(h) WAIVER REQUIREMENTS.—

(1) IN GENERAL.—If the Secretary receives a request for a waiver under this section, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request.

(2) NOTICE REQUIREMENTS.—A notice provided under paragraph (1) shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation.

(3) DETAILED JUSTIFICATION.—If the Secretary issues a waiver under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the waiver that addresses the public comments received under paragraph (1) and shall ensure that such justification is published before the waiver takes effect.

* * * * * * *

§ 315. Rules, regulations, and recommendations

Except as provided in **[**sections 204(f) and 205(a) of this title**]** *sections 203(b)(4) and 205(a)*, the Secretary is authorized to prescribe and promulgate all needful rules and regulations for the carrying out of the provisions of this title. The Secretary may make such recommendations to the Congress and State transportation departments as he deems necessary for preserving and protecting the highways and insuring the safety of traffic thereon.

* * * * * * *

§ 319. Landscaping and scenic enhancement

[(a) LANDSCAPE AND ROADSIDE DEVELOPMENT.—**]**The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisi-

tion and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.

[(b) PLANTING OF WILDFLOWERS.—

[(1) GENERAL RULE.—The Secretary shall require the planting of native wildflower seeds or seedlings, or both, as part of any landscaping project under this section. At least 1/4 of 1 percent of the funds expended for such landscaping project shall be used for such plantings.

[(2) WAIVER.—The requirements of this subsection may be waived by the Secretary if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes.

[(3) GIFTS.—Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.]

* * * * * * *

[§ 322. Magnetic levitation transportation technology deployment program

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

[(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs"—

[(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

[(B) includes the costs of preconstruction planning activities.

[(2) FULL PROJECT COSTS.—The term "full project costs" means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

[(3) MAGLEV.—The term "MAGLEV" means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

[(4) PARTNERSHIP POTENTIAL.—The term "partnership potential" has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978).

[(b) FINANCIAL ASSISTANCE.—

[(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects selected under this section. Financial assist-

ance made available under this section and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

[(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than 2/3.

[(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

[(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

[(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

[(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

[(2) require an amount of Federal funds for project financing that will not exceed the sum of—

[(A) the amounts made available under subsection (h)(1); and

[(B) the amounts made available by States under subsection (h)(3);

[(3) result in an operating transportation facility that provides a revenue producing service;

[(4) be undertaken through a public and private partnership, with at least 1/3 of full project costs paid using non-Federal funds;

[(5) satisfy applicable statewide and metropolitan planning requirements;

[(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

[(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

[(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

[(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

[(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

[(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

[(3) States, regions, and localities financially contribute to the project;

[(4) implementation of the project will create new jobs in traditional and emerging industries;

[(5) the project will augment MAGLEV networks identified as having partnership potential;

[(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

[(7) financial assistance would foster the timely implementation of a project; and

[(8) life-cycle costs in design and engineering are considered and enhanced.

[(f) PROJECT SELECTION.—

[(1) PRECONSTRUCTION PLANNING ACTIVITIES.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects to receive financial assistance for preconstruction planning activities, including—

[(A) preparation of such feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

[(B) pricing of the final design, engineering, and construction activities proposed to be assisted under paragraph (2); and

[(C) such other activities as are necessary to provide the Secretary with sufficient information to evaluate whether a project should receive financial assistance for final design, engineering, and construction activities under paragraph (2).

[(2) FINAL DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES.—After completion of preconstruction planning activities for all projects assisted under paragraph (1), the Secretary shall select 1 of the projects to receive financial assistance for final design, engineering, and construction activities.

[(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

[(h) FUNDING.—

[(1) IN GENERAL.—

[(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

[(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for fiscal year 1999, $20,000,000 for fiscal year 2000, and $25,000,000 for fiscal year 2001.

[(ii) CONTRACT AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

[(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

[(II) the availability of the funds shall be determined in accordance with paragraph (2).

[(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

[(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section (other than subsection (i)) $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

[(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.

[(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

[(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

[(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Equity Act for the 21st Century, including loans, loan guarantees, and lines of credit.

[(i) LOW-SPEED PROJECT.—

[(1) IN GENERAL.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, $5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

[(2) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

[(A) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

[(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

[(i) shall not be available in advance of an annual appropriation; and

[(ii) shall remain available until expended.]

* * * * * * *

§ 326. State assumption of responsibility for categorical exclusions

(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

(1) * * *

(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary [and only for types of activities specifically designated by the Secretary] *and for any type of activity for which a categorical exclusion classification is appropriate*.

* * * * * * *

(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego project delivery methods that are otherwise permissible for highway projects.

* * * * * * *

§ 327. Surface transportation project delivery [pilot] program

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery [pilot] program (referred to in this section as the "program").

(2) ASSUMPTION OF RESPONSIBILITY.—

(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more [highway] projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

(i) * * *

[(ii) the Secretary may not assign—

[(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

[(II) any responsibility imposed on the Secretary by section 134 or 135.]

(ii) the Secretary may not assign any responsibility imposed on the Secretary by section 5203 or 5204 of title 49.

* * * * * * *

(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for projects.

(b) STATE PARTICIPATION.—

[(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the States of Alaska, California, Ohio, Oklahoma, and Texas) to participate in the program.]

(1) PARTICIPATING STATES.—All States are eligible to participate in the program.

(2) APPLICATION.—Not later than 270 days after the date of enactment of [this section, the Secretary shall promulgate] *amendments to this section by the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall amend, as appropriate,* regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

(A) * * *

* * * * * * *

(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

(1) * * *

* * * * * * *

(3) provide that the State—

(A) * * *

* * * * * * *

(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed[.]*;*

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

(5) be renewable.

* * * * * * *

(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in [subsection (i)] *subsection (j)*.

* * * * * * *

(g) AUDITS.—

(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

(A) * * *

(B) annual audits during each [subsequent year] *of the third and fourth years* of State participation.

* * * * * * *

(h) MONITORING.—After the fourth year of the participation of a State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

[(h)] *(i)* REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

[(i) TERMINATION.—

[(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 7 years after the date of enactment of this section.

[(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

[(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

[(B) the Secretary provides to the State—

[(i) notification of the determination of noncompliance; and

[(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

[(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.]

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

(1) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

(2) the Secretary provides to the State—

(A) notification of the determination of noncompliance; and

(B) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

(3) the State, after the notification and period provided under paragraph (2), fails to take satisfactory corrective action, as determined by the Secretary.

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

(1) MULTIMODAL PROJECT.—The term "multimodal project" means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.

(2) PROJECT.—The term "project" means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

* * * * * * *

§ 330. Funding flexibility for transportation emergencies

(a) IN GENERAL.—Notwithstanding any other provision of law, the chief executive of a State, after declaring an emergency with respect to a transportation facility under subsection (b), may use any covered funds of the State to repair or replace the transportation facility.

(b) DECLARATION OF EMERGENCY.—To declare an emergency with respect to a transportation facility for purposes of subsection (a), the chief executive of a State shall provide to the Secretary written notice of the declaration, which shall specify—

(1) the emergency;

(2) the affected transportation facility; and

(3) the repair or replacement activities to be carried out.

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

(1) COVERED FUNDS.—The term "covered funds" means any amounts apportioned to a State under this title, including any such amounts required to be set aside for a purpose other than

the repair or replacement of a transportation facility under this section.

(2) EMERGENCY.—The term "emergency" means any unexpected event or condition that—

(A) may cause, or has caused, the catastrophic failure of a transportation facility; and

(B) is determined to be an emergency by the chief executive of a State.

(3) TRANSPORTATION FACILITY.—The term "transportation facility" means any component of the National Highway System.

(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to allow a State to change the division of surface transportation program funding under section 133(d)(3).

§ 331. Program for eliminating duplication of environmental reviews

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of projects. Under this program, a State may use State laws and procedures to conduct reviews and make approvals in lieu of Federal environmental laws and regulations, consistent with the provisions of this section.

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

(3) SCOPE OF ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.—For purposes of this section, alternative environmental review and approval procedures may include one or more of the following:

(A) Substitution of one or more State environmental laws for one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State environmental laws provide environmental protection and opportunities for public involvement that are substantially equivalent to the applicable Federal environmental laws.

(B) Substitution of one or more State regulations for Federal regulations implementing one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State regulations provide environmental protection and opportunities for public involvement that are substantially equivalent to the Federal regulations.

(b) APPLICATION.—To participate in the program, a State shall submit to the Secretary an application containing such information as the Secretary may require, including—

(1) a full and complete description of the proposed alternative environmental review and approval procedures of the State;

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

(3) evidence of having sought, received, and addressed comments on the proposed application from the public and appropriate Federal environmental resource agencies.

(c) REVIEW OF APPLICATION.—The Secretary shall—

(1) review an application submitted under subsection (b);

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

(3) transmit to the State notice of the approval or disapproval, together with a statement of the reasons for the approval or disapproval.

(d) APPROVAL OF STATE PROGRAMS.—

(1) IN GENERAL.—The Secretary shall approve each such application if the Secretary finds that the proposed alternative environmental review and approval procedures of the State are substantially equivalent to the applicable Federal environmental laws and Federal regulations.

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

(e) COMPLIANCE WITH PERMITS.—Compliance with a permit or other approval of a project issued pursuant to a program approved by the Secretary under this section shall be deemed compliance with the Federal laws and regulations identified in the program approved by the Secretary pursuant to this section.

(f) REVIEW AND TERMINATION.—

(1) REVIEW.—All State alternative environmental review and approval procedures approved under this section shall be reviewed by the Secretary not less than once every 5 years.

(2) PUBLIC NOTICE AND COMMENT.—In conducting the review process under paragraph (1), the Secretary shall provide notice and an opportunity for public comment.

(3) EXTENSIONS AND TERMINATIONS.—At the conclusion of the review process, the Secretary may extend the State alternative environmental review and approval procedures for an additional 5-year period or terminate the State program.

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

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

(1) ENVIRONMENTAL LAW.—The term "environmental law" includes any law that provides procedural or substantive protection, as applicable, for the natural or built environment with regard to the construction and operation of projects.

(2) FEDERAL ENVIRONMENTAL LAWS.—The term "Federal environmental laws" means laws governing the review of environmental impacts of, and issuance of permits and other approvals for, the construction and operation of projects, including section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), section 106 of the National Historic Preservation Act (16 U.S.C. 470f), and sections 7(a)(2), 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B), 1539(a)(1)(B)).

(3) MULTIMODAL PROJECT.—The term "multimodal project" means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.

(4) PROJECT.—The term "project" means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

§ 332. State performance of legal sufficiency reviews

(a) IN GENERAL.—At the request of any State transportation department, the Federal Highway Administration shall enter into an agreement with the State transportation department to authorize the State to carry out the legal sufficiency reviews for environmental impact statements and environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with this section.

(b) TERMS OF AGREEMENT.—An agreement authorizing a State to carry out legal sufficiency reviews for Federal-aid highway projects shall contain the following provisions:

(1) A finding by the Federal Highway Administration that the State has the capacity to carry out legal sufficiency reviews that are equivalent in quality and consistency to the reviews that would otherwise be conducted by attorneys employed by such Administration.

(2) An oversight process, including periodic reviews conducted by attorneys employed by such Administration, to evaluate the quality of the legal sufficiency reviews carried out by the State transportation department under the agreement.

(3) A requirement for the State transportation department to submit a written finding of legal sufficiency to the Federal Highway Administration concurrently with the request by the State for Federal approval of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) document.

(4) An opportunity for the Federal Highway Administration to conduct an additional legal sufficiency review for any project, for not more than 30 days, if considered necessary by the Federal Highway Administration.

(5) Procedures allowing either party to the agreement to terminate the agreement for any reason with 30 days notice to the other party.

(c) EFFECT OF AGREEMENT.—A legal sufficiency review carried out by a State transportation department under this section shall be deemed by the Federal Highway Administration to satisfy the requirement for a legal sufficiency review in sections 771.125(b) and 774.7(d) of title 23, Code of Federal Regulations, or other applicable regulations issued by the Federal Highway Administration.

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CHAPTER 4—HIGHWAY SAFETY

Sec.
401. Authority of the Secretary.

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[403. Highway safety research and development.]

403. Use of certain funds made available for administrative expenses.

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[405. Occupant protection incentive grants.
[406. Safety belt performance grants.
[407. Innovative project grants.
[408. State traffic safety information system improvements.]

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[410. Alcohol-impaired driving countermeasures.
[411. State highway safety data improvements.]

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§ 402. Highway safety programs

[(a) Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform guidelines promulgated by the Secretary. Such uniform guidelines shall be expressed in terms of performance criteria. In addition, such uniform guidelines shall include programs (1) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits, (2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles, (3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance, (4) to prevent accidents and reduce deaths and injuries resulting from accidents involving motor vehicles and motorcycles, (5) to reduce injuries and deaths resulting from accidents involving school buses, and (6) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles) (7) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures. The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require. The purposes of the program are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs. The program shall provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts. The Secretary shall establish minimum reporting criteria for the program. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, aggressive driving, fatigued driving, distracted driving, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents. Such uniform guidelines shall be promulgated by the Secretary so as to improve driver performance (including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition

such uniform guidelines shall include, but not be limited to, provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, enforcement of light transmission standards of window glazing for passenger motor vehicles and light trucks as necessary to improve highway safety, and emergency services. Such guidelines as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.]

(a) STATE HIGHWAY SAFETY PROGRAMS.—

(1) IN GENERAL.—Each State shall have a highway safety program that is subject to approval by the Secretary and is designed to reduce traffic crashes and the fatalities, injuries, and property damage resulting therefrom.

(2) UNIFORM GUIDELINES.—A State's highway safety program under paragraph (1) shall be established and carried out in accordance with uniform guidelines promulgated by the Secretary, which shall be expressed in terms of performance criteria and shall include programs—

(A) to reduce injuries and fatalities resulting from motor vehicles being driven in excess of posted speed limits;

(B) to encourage the proper use of occupant protection devices (including the use of seat belts and child restraints) by occupants of motor vehicles;

(C) to reduce fatalities and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

(D) to prevent crashes and reduce fatalities and injuries resulting from crashes involving motor vehicles and motorcycles;

(E) to reduce crashes resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles);

(F) to improve law enforcement activities relating to motor vehicle crash prevention, traffic supervision, and postcrash procedures;

(G) to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the safety data of States that is needed—

(i) for activities relating to performance targets established under subsection (m);

(ii) to identify priorities for national, State, and local highway and traffic safety programs; and

(iii) to improve the compatibility and interoperability of the data systems of each State with national data systems and the data systems of other States;

(H) to improve driver performance, including through driver education, driver testing to determine proficiency to

operate motor vehicles, driver examinations (both physical and mental), and driver licensing; and

(I) to improve pedestrian and bicycle safety.

(3) RECORD SYSTEM.—The uniform guidelines promulgated under paragraph (2) shall include provisions for an effective record system of—

(A) traffic crashes, including injuries and fatalities resulting therefrom;

(B) crash investigation activities carried out to determine the probable causes of crashes, injuries, and fatalities;

(C) vehicle registration, operation, and inspection activities;

(D) highway design and maintenance activities, including lighting, markings, and surface treatment activities;

(E) traffic surveillance activities relating to the detection and correction of locations with a significant potential for crashes; and

(F) emergency services.

(4) APPLICABILITY OF GUIDELINES.—The uniform guidelines applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

(b) ADMINISTRATION OF STATE PROGRAMS.—

(1) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not approve a State highway safety program under this section which does not—

(A) * * *

* * * * * * *

(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State; [and]

(E) provide satisfactory assurances that the State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within a State as identified by the State highway safety planning process, including—

(i) [national law enforcement mobilizations] *any national traffic safety law enforcement mobilizations coordinated by the Secretary*;

* * * * * * *

(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources[.]*;*

(F) demonstrate that the State has established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems;

(G) demonstrate that the State has developed a multiyear highway safety data and traffic records system strategic plan that—

(i) addresses existing deficiencies in the State's highway safety data and traffic records system;

(ii) is approved by the State's highway safety data and traffic records coordinating committee;

(iii) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

(iv) prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies of the State, the highway safety data and traffic records system needs and goals of the State;

(v) identifies performance-based measures by which progress toward those goals will be determined; and

(vi) specifies how funds apportioned to the State under subsection (c) and any other funds of the State are to be used to address needs and goals identified in the multiyear plan; and

(H) demonstrate that an assessment or audit of the State's highway safety data and traffic records system was conducted or updated during the 5-year period ending on the date on which such State highway safety program is submitted to the Secretary for approval.

* * * * * * *

[(3) USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers.**]**

[(c) Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom. Such funds shall be apportioned 75 per centum in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than three-quarters of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior shall not be less than 2 percent of the total apportionment and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 per centum of the total ap-

portionment. The Secretary shall not apportion any funds under this subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section. For the purpose of the seventh sentence of this subsection, a highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State. Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 per centum of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if he approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.]

(c) APPORTIONMENT OF FUNDS.—

(1) IN GENERAL.—Funds made available to carry out this section shall be used to aid States in conducting the highway safety programs approved under subsection (a).

(2) APPORTIONMENT FORMULA.—Funds described in paragraph (1) shall be apportioned among the States each fiscal year in the following manner:

(A) 62.5 percent in the ratio that the population of each State bears to the total population of all States, as shown by the latest available Federal census.

(B) 20 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States.

(C) 10 percent only to States that have enacted and are enforcing a primary safety belt use law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

(D) 5 percent only to States that have enacted and are enforcing an ignition interlock law, in the ratio that the population of each such State bears to the total population of all

such States, as shown by the latest available Federal census.

(E) 2.5 percent only to States that have enacted and are enforcing a graduated drivers licensing law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

(3) MINIMUM APPORTIONMENT.—The annual apportionment under paragraph (2) to each State shall not be less than three-quarters of 1 percent of the total apportionment under that paragraph in the applicable fiscal year, except that the apportionment to the Secretary of the Interior shall not be less than 1.5 percent of the total apportionment and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

(4) IMPLEMENTATION OF APPROVED HIGHWAY SAFETY PROGRAMS.—

(A) REQUIREMENT FOR RECEIVING APPORTIONMENTS.—The Secretary shall not apportion any funds under this section to any State that is not implementing a highway safety program approved by the Secretary under this section.

(B) LIMITATIONS ON REQUIREMENTS RELATING TO MOTORCYCLE SAFETY HELMETS.—A highway safety program approved by the Secretary shall not include any requirement that a State implement such program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section that requires any motorcycle operator 18 years of age or older or passenger 18 years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State.

(C) COMPLIANCE WITH IMPLEMENTATION REQUIREMENTS.—Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline promulgated under this section, or with every element of every uniform guideline, in every State.

(D) MINIMUM REQUIREMENTS FOR IMPAIRED DRIVING HIGH RANGE STATES.—An impaired driving high range State shall expend in a fiscal year, on projects and activities addressing impaired driving, at least 30 percent of the funds apportioned to that State under paragraph (2) for that fiscal year.

(E) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

(i) PROHIBITION.—A State may not expend funds apportioned to that State under paragraph (2) to carry out any program to purchase, operate, or maintain an automated traffic enforcement system.

(ii) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this subparagraph, the term "automated traffic enforcement system" means automated technology that monitors compliance with traffic laws.

[(d) All provisions**]** *(d) APPLICABILITY OF CERTAIN PROVISIONS.—All provisions* of chapter 1 of this title that are applicable to Na-

tional Highway System highway funds other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section, and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary. In applying such provisions of chapter 1 in carrying out this section the term "State transportation department" as used in such provisions shall mean the Governor of a State for the purposes of this section.

[(e) Uniform guidelines] *(e) COOPERATION.—Uniform guidelines* promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

[(f) The Secretary] *(f) DEPARTMENT AND AGENCY PARTICIPATION.—The Secretary* may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by subsection (a) and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

[(g) Nothing in] *(g) LIMITATION ON FUNDS.—Nothing in* this section authorizes the appropriation or expenditure of funds [for (1) highway construction] *for highway construction*, maintenance, or design (other than design of safety features of highways to be incorporated into [guidelines) or (2) any purpose for which funds are authorized by section 403 of this title] *guidelines) or for any purpose for which funds are authorized under section 403(a).*

* * * * * * *

[(k)(1) Subject to the provisions of this subsection, the Secretary shall make a grant to any State which includes, as part of its highway safety program under section 402 of this title, the use of a comprehensive computerized safety recordkeeping system designed to correlate data regarding traffic accidents, drivers, motor vehicles, and roadways. Any such grant may only be used by such State to establish and maintain a comprehensive computerized traffic safety recordkeeping system or to obtain and operate components to support highway safety priority programs identified by the Secretary under this section. Notwithstanding any other provision of law, if a report, list, schedule, or survey is prepared by or for a State or political subdivision thereof under this subsection, such re-

port, list, schedule, or survey shall not be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report, list, schedule, or survey.

[(2) No State may receive a grant under this subsection in more than two fiscal years.

[(3) The amount of the grant to any State under this subsection for the first fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1985 under this section. The amount of a grant to any State under this subsection for the second fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1986 under this section.

[(4) A State is eligible for a grant under this subsection if—

[(A) it certifies to the Secretary that it has in operation a computerized traffic safety recordkeeping system and identifies proposed means of upgrading the system acceptable to the Secretary; or

[(B) it provides to the Secretary a plan acceptable to the Secretary for establishing and maintaining a computerized traffic safety recordkeeping system.

[(5) The Secretary, after making the deduction authorized by the second sentence of subsection (c) of this section for fiscal years 1985 and 1986, shall set aside 10 per centum of the remaining funds authorized to be appropriated to carry out this section for the purpose of making grants under this subsection. Funds set aside under this subsection shall remain available for the fiscal year authorized and for the succeeding fiscal year and any amounts remaining unexpended at the end of such period shall be apportioned in accordance with the provisions of subsection (c) of this section.]

[(l)] *(k)* LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—A State shall actively encourage all relevant law enforcement agencies in such State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of this subsection or as revised and in effect after such date as determined by the Secretary.

[(m)] *(l)* CONSOLIDATION OF GRANT APPLICATIONS.—The Secretary shall establish an approval process by which a State may apply for all grants under this chapter for which a single application process with one annual deadline is appropriate. The Bureau of Indian Affairs shall establish a similar simplified process for applications for grants from Indian tribes under this chapter.

(m) ESTABLISHMENT OF PERFORMANCE TARGETS.—

(1) IN GENERAL.—The Governor of each State shall establish quantifiable performance targets for their State—

(A) to be incorporated into the highway safety plan of the State under subsection (n) each year; and

(B) with respect to, at a minimum—

(i) the average number of fatalities in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled;

(ii) the average number of serious injuries in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled;

(iii) the average number of traffic fatalities in the State involving drivers or motorcycle operators with a blood alcohol content of .08 or above per 100,000,000 vehicle miles traveled;

(iv) the average number of traffic crashes in the State involving drivers or motorcycle operators with a blood alcohol content of .08 or above per 100,000,000 vehicle miles traveled;

(v) the average number of unrestrained motor vehicle occupant fatalities, for all seat positions, in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled; and

(vi) the average number of motorcyclist fatalities in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled.

(2) CONSIDERATIONS IN ESTABLISHING PERFORMANCE TARGETS.—In establishing performance targets for a State under this subsection, a Governor shall consider, at a minimum—

(A) the number of fatalities in the State resulting from traffic crashes during the preceding 3 years;

(B) the number of serious injuries in the State resulting from traffic crashes during the preceding 3 years;

(C) the extent to which vehicle miles traveled in the State may impact the number of fatalities and serious injuries in the State resulting from traffic crashes; and

(D) data available from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration.

(n) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

(1) IN GENERAL.—With respect to fiscal year 2014, and each fiscal year thereafter, the Secretary shall require the Governor of each State, as a condition of the approval of the State's highway safety program for that fiscal year, to develop and submit to the Secretary for approval a highway safety plan applicable to that fiscal year in accordance with this subsection. The plan required under this paragraph may be incorporated into any other document required to be submitted under this section.

(2) TIMING.—Each Governor shall submit to the Secretary the highway safety plan of their State not later than September 1 of the fiscal year preceding the fiscal year to which the plan applies.

(3) CONTENTS.—A State's highway safety plan shall include, at a minimum—

(A) current data with respect to each performance target established for the State under subsection (m);

(B) for the fiscal year preceding the fiscal year to which the plan applies, a description of the State's performance regarding each performance target category described in subsection (m)(1)(B);

(C) for the fiscal year preceding the fiscal year to which the plan applies, a description of the projects and activities for which the State obligated funding apportioned to the State under this section;

(D) for the fiscal year to which the plan applies, the State's strategy for using funds apportioned to the State

under this section for projects and activities that will allow the State to meet the performance targets established for the State under subsection (m);

(E) data and data analysis supporting the effectiveness of projects and activities proposed in the strategy under subparagraph (D);

(F) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the State's strategy under subparagraph (D); and

(G) a certification that the State will maintain its aggregate expenditures for highway safety activities, from sources other than funds apportioned to the State under this section, at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this subsection.

(4) REVIEW OF HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a State's highway safety plan, the Secretary shall approve or disapprove the plan.

(B) APPROVALS AND DISAPPROVALS.—The Secretary shall approve or disapprove a State's highway safety plan based on a review of the plan, including an evaluation of whether, in the Secretary's judgment, the plan is evidence-based, is supported by data and analysis, and, if implemented, will allow the State to meet the performance targets established for the State under subsection (m). The Secretary shall disapprove a State's highway safety plan if the plan does not, in the Secretary's judgment, provide for the evidenced-based use of funding in a manner sufficient to allow the State to meet performance targets.

(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall inform the Governor of the State of the reasons for the disapproval and require the Governor to resubmit the plan with such modifications as the Secretary determines necessary.

(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a Governor to resubmit a highway safety plan with modifications, the Secretary shall approve or disapprove the modified plan not later than 30 days after the date on which the modified plan is submitted to the Secretary.

(E) FUNDING ALLOCATIONS.—If a State failed to accomplish, as determined by the Secretary, a performance target established for that State under subsection (m) in the fiscal year preceding the fiscal year to which a State highway safety plan under review applies, the Secretary shall require the following to be included in the highway safety plan under review:

(i) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(iii) or (m)(1)(B)(iv), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing impaired driving in

an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

(ii) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(v), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing occupant protection in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

(iii) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(vi), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing motorcycle safety in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

(F) DATA.—

(i) FATALITIES DATA.—A State's compliance with performance targets relating to fatalities shall be determined using the most recent data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration.

(ii) CRASH DATA.—A State's compliance with performance targets relating to serious injuries shall be determined using State crash data files.

(G) PUBLIC NOTICE.—A State shall make each highway safety plan of the State available to the public.

(o) ANNUAL REPORT TO CONGRESS.—Not later than October 1, 2015, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) an evaluation of each State's performance with respect to the State's highway safety plan under subsection (n) and performance targets under subsection (m); and

(2) such recommendations as the Secretary may have for improvements to activities carried out under subsections (m) and (n).

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

(1) CHILD RESTRAINT.—The term "child restraint" means any product designed to provide restraint to a child in a motor vehicle (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

(2) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(3) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms "driving while intoxicated" and "driving

under the influence" have the meaning given those terms in section 164.

(4) GRADUATED DRIVERS LICENSING LAW.—The term "graduated drivers licensing law" means a law enacted by a State that requires, before the granting of an unrestricted driver's license to individuals under the age of 21 years, a 2-stage licensing process that includes the following:

(A) A learner's permit stage that—

(i) allows for the acquisition of a learner's permit by an individual not earlier than the date on which that individual attains 15 years and 6 months of age;

(ii) is at least 6 months in duration;

(iii) requires an individual with a learner's permit to complete at least 30 hours of driving supervised by a licensed driver who is 21 years of age or older;

(iv) requires an individual with a learner's permit to be accompanied and supervised by a licensed driver who is 21 years of age or older at all times when operating a motor vehicle; and

(v) is in effect until the commencement of the intermediate stage or until the date on which the applicable individual attains 18 years of age.

(B) An intermediate stage that—

(i) applies to an individual immediately after the expiration of the learner's permit stage for that individual;

(ii) is at least 6 months in duration;

(iii) prohibits the operation of a motor vehicle by an individual to whom the stage applies, if that individual is transporting more than one nonfamilial passenger under the age of 18 years and there is no licensed driver 21 years of age or older present in the motor vehicle; and

(iv) prohibits an individual to whom the stage applies from operating a motor vehicle between the hours of midnight and 4 a.m., unless such individual is accompanied and supervised by a licensed driver who is 21 years of age or older.

(5) IMPAIRED DRIVING HIGH RANGE STATE.—The term "impaired driving high range State" means a State that averaged more than .50 alcohol impaired driving fatalities per 100,000,000 vehicle miles traveled, as determined using data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration, for the most recent 3 years for which data are available.

(6) IGNITION INTERLOCK DEVICE.—The term "ignition interlock device" means an in-vehicle device that requires a driver to provide a breath sample prior to a motor vehicle starting and that prevents a motor vehicle from starting if the blood alcohol content of the driver is above the legal limit.

(7) IGNITION INTERLOCK LAW.—The term "ignition interlock law" means a law enacted by a State that requires throughout the State the installation of an ignition interlock device, for a minimum of 6 months, on each motor vehicle operated by an in-

dividual who is convicted of driving while intoxicated or driving under the influence.

(8) MOTOR VEHICLE.—The term "motor vehicle" has the meaning given that term in section 157.

(9) MOTORCYCLIST SAFETY TRAINING.—The term "motorcyclist safety training" means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include a State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

(10) PRIMARY SAFETY BELT USE LAW.—The term "primary safety belt use law" means a law enacted by a State that—

(A) requires all occupants in the front seat of a motor vehicle to utilize a seat belt when the motor vehicle is being driven; and

(B) allows for a law enforcement officer to stop a vehicle solely for the purpose of issuing a citation for a violation of the requirement in subparagraph (A) in the absence of evidence of another offense.

(11) PROJECTS AND ACTIVITIES ADDRESSING IMPAIRED DRIVING.—The term "projects and activities addressing impaired driving" means projects and activities—

(A) to develop and implement law enforcement measures and tools designed to reduce impaired driving, including training, education, equipment, and other methods of support for law enforcement and criminal justice professionals;

(B) to improve impaired driving prosecution and adjudication, including the establishment of courts that specialize in impaired driving cases;

(C) to carry out safety campaigns relating to impaired driving using paid media;

(D) to provide inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment;

(E) to establish and improve information systems containing data on impaired driving; or

(F) to establish and implement an ignition interlock system for individuals convicted of driving while intoxicated or driving under the influence.

(12) PROJECTS AND ACTIVITIES ADDRESSING MOTORCYCLE SAFETY.—The term "projects and activities addressing motorcycle safety" means projects and activities—

(A) to improve the content and delivery of motorcyclist safety training curricula;

(B) to support licensing, training, and safety education for motorcyclists, including new entrants;

(C) to enhance motorcycle safety through public service announcements, including safety messages on road sharing, outreach, and public awareness activities; or

(D) to provide for the safety of motorcyclists through the promotion of appropriate protective equipment.

(13) PROJECTS AND ACTIVITIES ADDRESSING OCCUPANT PROTECTION.—The term "projects and activities addressing occupant protection" means projects and activities—

(A) to provide for occupant protection training, education, equipment, and other methods of support for law enforcement and criminal justice professionals;

(B) to carry out safety campaigns relating to occupant protection using paid media;

(C) to establish and improve information systems containing data on occupant protection;

(D) to provide for training of firefighters, law enforcement officers, emergency medical services professionals, and others on the provision of community child passenger safety services; or

(E) to purchase child restraints for low-income families.

(14) PUBLIC ROAD.—The term "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel.

(15) PUBLIC ROAD MILEAGE.—The term "public road mileage" means the number of public road miles in a State as—

(A) determined at the end of the calendar year preceding the year in which applicable funds are apportioned; and

(B) certified by the Governor of the State, subject to approval by the Secretary.

(16) SEAT BELT.—The term "seat belt" has the meaning given that term in section 157.

[§ 403. Highway safety research and development

[(a) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to use funds appropriated to carry out this section to—

[(1) conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;

[(2) conduct ongoing research into driver behavior and its effect on traffic safety;

[(3) conduct research on, launch initiatives to counter, and conduct demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;

[(4) conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

[(5) conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives;

[(6) conduct research on, evaluate, and develop best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration and delivery mechanisms) and make recommendations for harmonizing driver education and multistage graduated licensing systems;

[(7) conduct research, training, and education programs related to older drivers;

[(8) conduct demonstration projects; and

[(9) conduct research, training, and programs relating to motorcycle safety, including impaired driving.

[(b) DRUGS AND DRIVER BEHAVIOR.—In addition to the research authorized by subsection (a), the Secretary, in consultation with other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

[(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles.

[(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver crash involvement to highway safety.

[(3) Measures that may deter drugged driving.

[(4) Programs to train law enforcement officers on motor vehicle pursuits conducted by the officers.

[(5) Technology to detect drug use and enable States to efficiently process toxicology evidence.

[(6) Research on the effects of illicit drugs and the compound effects of alcohol and illicit drugs on impairment.

[(c) The research authorized by subsections (a) and (b) of this section may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

[(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section.

[(e) In addition to the research authorized by subsection (a) of this section, the Secretary shall, either independently or in cooperation with other Federal departments or agencies, conduct research into, and make grants to or contracts with State or local agencies, institutions, and individuals for projects to demonstrate the administrative adjudication of traffic infractions. Such administrative adjudication demonstration projects shall be designed to improve highway safety by developing fair, efficient, and effective processes and procedures for traffic infraction adjudication, utilizing appropriate punishment, training, and rehabilitative measures for traffic offenders. The Secretary shall report to Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions.

[(f) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

[(1) IN GENERAL.—For the purpose of encouraging innovative solutions to highway safety problems, stimulating voluntary improvements in highway safety, and stimulating the marketing of new highway safety-related technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, colleges, and universities and corporations, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State or the United States.

This collaborative research may include crash data collection and analysis; driver and pedestrian behavior; and demonstrations of technology.

[(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in entering into such agreements, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this subsection.

[(3) PROJECT SELECTION.—In selecting projects to be conducted under this subsection, the Secretary shall establish a procedure to consider the views of experts and the public concerning the project areas.

[(4) APPLICABILITY OF STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.—The research, development, or utilization of any technology pursuant to an agreement under the provisions of this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980.

[(g) INTERNATIONAL COOPERATION.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.]

§ 403. Use of certain funds made available for administrative expenses

(a) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—The Secretary is authorized to carry out, using funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012—

(1) ongoing research into driver behavior and its effect on traffic safety;

(2) research on, initiatives to counter, and demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors determined relevant by the Secretary have on driving;

(3) training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

(4) research on and evaluations of the effectiveness of traffic safety countermeasures, including seat belts and impaired driving initiatives;

(5) research on, evaluations of, and identification of best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration, and delivery mechanisms) and make recommendations for harmonizing driver education and multistage graduated licensing systems;

(6) research, training, and education programs related to older drivers;

(7) highway safety demonstration projects related to driver behavior, including field operational tests for vehicle collision avoidance systems, vehicle voice interface systems, vehicle workload management systems, driver state monitoring systems, and autonomous vehicles; and

(8) research, training, and programs relating to motorcycle safety, including impaired driving.

(b) HIGH VISIBILITY ENFORCEMENT PROGRAM.—

(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer, using funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012, a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purpose specified in paragraph (2) in each of fiscal years 2013 through 2016.

(2) PURPOSE.—The purpose of each law enforcement campaign under this subsection shall be to achieve one or more of the following objectives:

(A) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

(B) Increase the use of seat belts by occupants of motor vehicles.

(C) Reduce distracted driving of motor vehicles.

(3) ADVERTISING.—The Administrator may use, or authorize the use of, funds made available to carry out this subsection to pay for the development, production, and use of broadcast and print media advertising in carrying out law enforcement campaigns under this subsection. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen to, read, or watch nontraditional media.

(4) COORDINATION WITH STATES.—The Administrator shall coordinate with States in carrying out law enforcement campaigns under this subsection, including advertising funded under paragraph (3), with a view toward—

(A) relying on States to provide the law enforcement resources for the campaigns out of funding available under this subsection and section 402; and

(B) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

(5) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of campaigns carried out under this subsection.

(6) STATE DEFINED.—In this subsection, the term "State" has the meaning given that term in section 401.

(c) AVAILABILITY OF FUNDS.—The Secretary shall ensure that at least $137,244,000 of the funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure

Jobs Act of 2012 each fiscal year are used for programs and activities authorized under this section.

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[§ 405. Occupant protection incentive grants

[(a) GENERAL AUTHORITY.—

[(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants under this section to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. Such grants may be used by recipient States only to implement and enforce, as appropriate, such programs.

[(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for programs described in paragraph (1) at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the SAFETEA-LU.

[(3) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 9 fiscal years beginning after September 30, 2003.

[(4) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

[(A) in each of the first and second fiscal years beginning after September 30, 2003, in which the State receives a grant under this section, 75 percent;

[(B) in each of the third and fourth fiscal years beginning after September 30, 2003, in which the State receives a grant under this section, 50 percent; and

[(C) in each of the fifth through ninth fiscal years beginning after September 30, 2003, in which the State receives a grant under this section, 25 percent.

[(b) GRANT ELIGIBILITY.—A State shall become eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary at least 4 of the following:

[(1) SAFETY BELT USE LAW.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle (and, beginning in fiscal year 2001, in any seat in the vehicle) does not have a safety belt properly secured about the individual's body.

[(2) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of the safety belt use law of the State.

[(3) MINIMUM FINE OR PENALTY POINTS.—The State imposes a minimum fine or provides for the imposition of penalty points against the driver's license of an individual—

[(A) for a violation of the safety belt use law of the State; and

[(B) for a violation of the child passenger protection law of the State.

[(4) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State has implemented a statewide special traffic enforcement program for occupant protection that emphasizes publicity for the program.

[(5) CHILD PASSENGER PROTECTION EDUCATION PROGRAM.—The State has implemented a statewide comprehensive child passenger protection education program that includes education programs about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems.

[(6) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

[(c) GRANT AMOUNTS.—The amount of a grant for which a State qualifies under this section for a fiscal year shall equal up to 100 percent of the amount apportioned to the State for fiscal year 2003 under section 402.

[(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

[(f) DEFINITIONS.—In this section, the following definitions apply:

[(1) CHILD SAFETY SEAT.—The term "child safety seat" means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

[(2) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

[(3) MULTIPURPOSE PASSENGER VEHICLE.—The term "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

[(4) PASSENGER CAR.—The term "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

[(5) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" means a passenger car or a multipurpose passenger motor vehicle.

[(6) SAFETY BELT.—The term "safety belt" means—

[(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

[(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

[§ 406. Safety belt performance grants

[(a) IN GENERAL.—The Secretary shall make grants to States in accordance with the provisions of this section to encourage the en-

actment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

[(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

[(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

[(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

[(B) in the case of a State that does not have such a primary safety belt use law, has after December 31, 2005, a State safety belt use rate of 85 percent or more for each of the 2 calendar years immediately preceding the fiscal year of a grant, as measured under criteria determined by the Secretary.

[(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) shall equal 475 percent of the amount apportioned to the State under section 402(c) for fiscal year 2003.

[(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (1)(A), a conforming primary safety belt use law enacted after June 30th of any year shall—

[(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

[(B) be considered as if it were enacted after October 1 of the next Federal fiscal year.

[(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, the Secretary shall make grants under this subsection to States in the order in which—

[(A) the conforming primary safety belt use law came into effect; or

[(B) the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years (as measured under by criteria determined by the Secretary), whichever first occurs.

[(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's conforming primary safety belt use law remains in effect or its safety belt use rate is 85 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to the condition in paragraph (4)).

[(c) GRANTS FOR PRE-2003 LAWS.—

[(1) IN GENERAL.—To the extent that amounts made available for grants under this section for any of fiscal years 2006 through 2009 exceed the total amount of grants to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a conforming primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003.

[(2) AMOUNT; INSTALLMENTS.—The amount of a grant available to a State under this subsection shall be equal to 200 percent of the amount of funds apportioned to the State under section 402(c) for fiscal year 2003. The Secretary may award the grant in annual installments.

[(d) ALLOCATION OF UNALLOCATED FUNDS.—

[(1) ADDITIONAL GRANTS.—The Secretary shall make additional grants under this section of any amounts made available for grants under this section that, on July 1, 2009, have not been allocated to States under this section.

[(2) ALLOCATION.—The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing conforming primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).

[(e) USE OF GRANT FUNDS.—

[(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

[(A) intersection improvements;

[(B) pavement and shoulder widening;

[(C) installation of rumble strips and other warning devices;

[(D) improving skid resistance;

[(E) improvements for pedestrian or bicyclist safety;

[(F) railway-highway crossing safety;

[(G) traffic calming;

[(H) the elimination of roadside obstacles;

[(I) improving highway signage and pavement marking;

[(J) installing priority control systems for emergency vehicles at signalized intersections;

[(K) installing traffic control or warning devices at locations with high accident potential;

[(L) safety-conscious planning; and

[(M) improving crash data collection and analysis.

[(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000 of amounts received by States under this section are obligated for safety activities under this chapter.

[(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

[(f) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

[(g) FEDERAL SHARE.—The Federal share payable for grants under this section shall be 100 percent.

[(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term "passenger motor vehicle" means—

[(1) a passenger car;

[(2) a pickup truck; and

[(3) a van, minivan, or sport utility vehicle with a gross vehicle weight rating of less than 10,000 pounds.

[§ 407. Innovative project grants

[(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

[(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

[(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

[(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

[(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.

[§ 408. State traffic safety information system improvements

[(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants to eligible States to support the development and implementation of effective programs by such States to—

[(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

[(2) evaluate the effectiveness of efforts to make such improvements;

[(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and

[(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

[(b) FIRST-YEAR GRANTS.—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—

[(1) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

[(2) developed a multiyear highway safety data and traffic records system strategic plan—

[(A) that addresses existing deficiencies in the State's highway safety data and traffic records system;

[(B) that is approved by the highway safety data and traffic records coordinating committee;

[(C) that specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

[(D) that prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies of the State, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);

[(E) that identifies performance-based measures by which progress toward those goals will be determined; and

[(F) that specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.

[(c) SUCCESSIVE YEAR GRANTS.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State—

[(1) certifies to the Secretary that an assessment or audit of the State's highway safety data and traffic records system has been conducted or updated within the preceding 5 years;

[(2) certifies to the Secretary that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

[(3) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;

[(4) demonstrates to the Secretary measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

[(5) submits to the Secretary a current report on the progress in implementing the multiyear plan.

[(d) GRANT AMOUNT.—Subject to subsection (e)(3), the amount of a year grant made to a State for a fiscal year under this section shall equal the higher of—

[(1) the amount determined by multiplying—

[(A) the amount appropriated to carry out this section for such fiscal year, by

[(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

[(2)(A) $300,000 in the case of the first fiscal year a grant is made to a State under this section after the date of enactment of this subparagraph; or

[(B) $500,000 in the case of a succeeding fiscal year a grant is made to the State under this section after such date of enactment.

[(e) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

[(1) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.

[(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary, in consultation with the States and appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

[(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the SAFETEA-LU.

[(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.

[(5) LIMITATION ON USE OF GRANT PROCEEDS.—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.

[(f) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this section.]

§ 409. Discovery and admission as evidence of certain reports and surveys

Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, pursuant to sections 130, 144, [and 148] *148, and 402* of this title or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages

arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data.

[§ 410. Alcohol-impaired driving countermeasures

[(a) GENERAL AUTHORITY.—

[(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol. Such grants may only be used by recipient States to implement and enforce such programs.

[(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the SAFETEA-LU.

[(3) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

[(A) in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

[(B) in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

[(C) in each of the fifth through eleventh fiscal years in which the State receives a grant under this section, 25 percent.

[(b) ELIGIBILITY REQUIREMENTS.—To be eligible for a grant under subsection (a), a State shall—

[(1) have an alcohol related fatality rate of 0.5 or less per 100,000,000 vehicle miles traveled as of the date of the grant, as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; or

[(2)(A) for fiscal year 2006 by carrying out 3 of the programs and activities under subsection (c);

[(B) for fiscal year 2007 by carrying out 4 of the programs and activities under subsection (c); or

[(C) for each of fiscal years 2008 through 2012 by carrying out 5 of the programs and activities under subsection (c).

[(c) STATE PROGRAMS AND ACTIVITIES.—The programs and activities referred to in subsection (b) are the following:

[(1) CHECK POINT, SATURATION PATROL PROGRAM.—A State program to conduct a series of high visibility, statewide law enforcement campaigns in which law enforcement personnel monitor for impaired driving, either through the use of sobriety check points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol—

[(A) if the State organizes the campaigns in cooperation with related periodic national campaigns organized by the

National Highway Traffic Safety Administration, except that this subparagraph does not preclude a State from initiating sustained high visibility, Statewide law enforcement campaigns independently of the cooperative efforts; and

[(B) if, for each fiscal year, the State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities at high incident locations (or any other similar activity approved by the Secretary) initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year.

[(2) PROSECUTION AND ADJUDICATION OUTREACH PROGRAM.—A State prosecution and adjudication program under which—

[(A) the State works to reduce the use of diversion programs by educating and informing prosecutors and judges through various outreach methods about the benefits and merits of prosecuting and adjudicating defendants who repeatedly commit impaired driving offenses;

[(B) the courts in a majority of the judicial jurisdictions of the State are monitored on the courts' adjudication of cases of impaired driving offenses; or

[(C) annual statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.

[(3) TESTING OF BAC.—An effective system for increasing from the previous year the rate of blood alcohol concentration testing of motor vehicle drivers involved in fatal accidents.

[(4) HIGH RISK DRIVERS.—A law that establishes stronger sanctions or additional penalties for individuals convicted of operating a motor vehicle while under the influence of alcohol whose blood alcohol concentration is 0.15 percent or more than for individuals convicted of the same offense but with a lower blood alcohol concentration. For purposes of this paragraph, "additional penalties" includes—

[(A) a 1-year suspension of a driver's license, but with the individual whose license is suspended becoming eligible after 45 days of such suspension to obtain a provisional driver's license that would permit the individual to drive—

[(i) only to and from the individual's place of employment or school; and

[(ii) only in an automobile equipped with a certified alcohol ignition interlock device; and

[(B) a mandatory assessment by a certified substance abuse official of whether the individual has an alcohol abuse problem with possible referral to counseling if the official determines that such a referral is appropriate.

[(5) PROGRAMS FOR EFFECTIVE ALCOHOL REHABILITATION AND DWI COURTS.—A program for effective inpatient and outpatient alcohol rehabilitation based on mandatory assessment

and appropriate treatment for repeat offenders or a program to refer impaired driving cases to courts that specialize in driving while impaired cases that emphasize the close supervision of high-risk offenders.

[(6) UNDERAGE DRINKING PROGRAM.—An effective strategy, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such a strategy may include—

[(A) the issuance of tamper-resistant drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 or older; and

[(B) a program provided by a nonprofit organization for training point of sale personnel concerning, at a minimum—

[(i) the clinical effects of alcohol;

[(ii) methods of preventing second party sales of alcohol;

[(iii) recognizing signs of intoxication;

[(iv) methods to prevent underage drinking; and

[(v) Federal, State, and local laws that are relevant to such personnel; and

[(C) having a law in effect that creates a 0.02 percent blood alcohol content limit for drivers under 21 years old.

[(7) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that—

[(A) in the case of an individual who, in any 5-year period beginning after the date of enactment of the Transportation Equity Act for the 21st Century, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

[(i) suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; except that under such suspension an individual may operate a motor vehicle, after the 15-day period beginning on the date of the suspension, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and

[(ii) suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5- year period; except that such individual to operate a motor vehicle, after the 45-day period beginning on the date of the suspension or revocation, to and from employment, school, or an alcohol treatment program

if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and

[(B) the suspension and revocation referred to under clauses (i) and (ii) take effect not later than 30 days after the date on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.

[(8) SELF SUSTAINING IMPAIRED DRIVING PREVENTION PROGRAM.—A program under which a significant portion of the fines or surcharges collected from individuals who are fined for operating a motor vehicle while under the influence of alcohol are returned to communities for comprehensive programs for the prevention of impaired driving.

[(d) USES OF GRANTS.—Subject to subsection (g)(2), grants made under this section may be used for all programs and activities described in subsection (c), and to defray the following costs:

[(1) Labor costs, management costs, and equipment procurement costs for the high visibility, Statewide law enforcement campaigns under subsection (c)(1).

[(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.

[(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.

[(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.

[(5) The costs of the development and implementation of a State impaired operator information system.

[(6) The costs of operating programs that result in vehicle forfeiture or impoundment or license plate impoundment.

[(e) ADDITIONAL AUTHORITIES FOR CERTAIN AUTHORIZED USES.—

[(1) COMBINATION OF GRANT PROCEEDS.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402.

[(2) COORDINATION OF USES.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—

[(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and

[(B) in coordination with sporting events and concerts and other entertainment events.

[(f) ALLOCATION.—Subject to subsection (g), funds made available to carry out this section shall be allocated among States that meet the eligibility criteria in subsection (b) on the basis of the apportionment formula under section 402(c).

[(g) GRANTS TO HIGH FATALITY RATE STATES.—

[(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that—

[(A) is among the 10 States with the highest impaired driving related fatalities as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; and

[(B) prepares a plan for grant expenditures under this subsection that is approved by the Administrator of the National Highway Traffic Safety Administration.

[(2) REQUIRED USES.—At least one-half of the amounts allocated to States under this subsection may only be used for the program described in subsection (c)(1).

[(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c), except that no State shall be allocated more than 30 percent of the funds made available to carry out this subsection for a fiscal year.

[(4) FUNDING.—Not more than 15 percent per fiscal year of amounts made available to carry out this section for a fiscal year shall be made available by the Secretary for making grants under this subsection.

[(h) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

[(i) DEFINITIONS.—In this section, the following definitions apply:

[(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" has the meaning given such term in section 158(c).

[(2) CONTROLLED SUBSTANCES.—The term "controlled substances" has the meaning given such term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

[(3) MOTOR VEHICLE.—The term "motor vehicle" has the meaning given such term in section 405.

[(4) IMPAIRED OPERATOR.—The term "impaired operator" means a person who, while operating a motor vehicle—

[(A) has a blood alcohol content of 0.08 percent or higher; or

[(B) is under the influence of a controlled substance.

[(5) IMPAIRED DRIVING RELATED FATALITY RATE.—The term "impaired driving related fatality rate" means the rate of alcohol related fatalities, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.

[§ 411. State highway safety data improvements

[(a) GENERAL AUTHORITY.—

[(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs—

[(A) to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

[(B) to evaluate the effectiveness of efforts to make such improvements;

[(C) to link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical and economic data; and

[(D) to improve the compatibility of the data system of the State with national data systems and data systems of other States and to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

Such grants may be used by recipient States only to implement such programs.

[(2) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall demonstrate how the multiyear highway safety data and traffic records plan of the State described in subsection (b)(1) will be incorporated into data systems of the State.

[(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

[(4) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

[(5) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

[(A) in the first and second fiscal years in which the State receives a grant under this section, 75 percent;

[(B) in the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

[(C) in the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

[(b) FIRST-YEAR GRANTS.—

[(1) ELIGIBILITY.—A State shall become eligible for a first-year grant under this subsection in a fiscal year if the State either—

[(A) demonstrates, to the satisfaction of the Secretary, that the State has—

[(i) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership, including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities);

[(ii) completed, within the preceding 5 years, a highway safety data and traffic records assessment or an audit of the highway safety data and traffic records system of the State; and

[(iii) initiated the development of a multiyear highway safety data and traffic records strategic plan that—

[(I) identifies and prioritizes the highway safety data and traffic records needs and goals of the State;

[(II) identifies performance-based measures by which progress toward those goals will be determined; and

[(III) will be submitted to the highway safety data and traffic records coordinating committee of the State for approval; or

[(B) provides, to the satisfaction of the Secretary—

[(i) a certification that the State has met the requirements of clauses (i) and (ii) of subparagraph (A);

[(ii) a multiyear highway safety data and traffic records strategic plan that—

[(I) meets the requirements of subparagraph (A)(iii); and

[(II) specifies how the incentive funds of the State for the fiscal year will be used to address needs and goals identified in the plan; and

[(iii) a certification that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan described in clause (ii).

[(2) GRANT AMOUNTS.—The amount of a first-year grant made to a State for a fiscal year under this subsection shall equal—

[(A) if the State is eligible for the grant under paragraph (1)(A), $125,000; and

[(B) if the State is eligible for the grant under paragraph (1)(B), an amount determined by multiplying—

[(i) the amount appropriated to carry out this section for such fiscal year; by

[(ii) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under paragraph (1)(B) shall receive less than $250,000.

[(3) STATES NOT MEETING CRITERIA.—The Secretary may award a grant of up to $25,000 for 1 year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable the State to qualify for a first-year grant in the next fiscal year.

[(c) SUCCEEDING YEAR GRANTS.—

[(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

[(A) submits or updates a multiyear highway safety data and traffic records strategic plan that meets the requirements of subsection (b)(1);

[(B) certifies that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan; and

[(C) reports annually on the progress of the State in implementing the multiyear plan.

[(2) GRANT AMOUNTS.—The amount of a succeeding year grant made to the State for a fiscal year under this paragraph shall equal the amount determined by multiplying—

[(A) the amount appropriated to carry out this section for such fiscal year; by

[(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under this paragraph shall receive less than $225,000.

[(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

[(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.]

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CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION

Sec.
501. Definitions.
[502. Surface transportation research.
[503. Technology deployment program.]
502. Surface transportation research, development, and technology.
503. Research and development.
503a. Technology and innovation deployment program.
* * * * * * *
[506. International highway transportation outreach program.
[507. Surface transportation environment and planning cooperative research program.]
* * * * * * *
[509. National cooperative freight transportation research program.
[510. Future strategic highway research program.]
* * * * * * *
[512. National ITS Program Plan.
[513. Use of funds for ITS activities.]
512. National intelligent transportation systems program plan.
513. Use of funds for intelligent transportation systems activities.
514. Intelligent transportation systems program goals and purposes.
515. Intelligent transportation systems program general authority and requirements.
516. Intelligent transportation systems research and development.
517. Intelligent transportation systems national architecture and standards.

§ 501. Definitions

In this chapter, the following definitions apply:

(1) CONNECTED VEHICLE TECHNOLOGY.—The term "connected vehicle technology" means the utilization of wireless technology to enable multiple vehicles to communicate information to each other.

[(1)] *(2)* FEDERAL LABORATORY.—The term "Federal laboratory" includes a Government-owned, Government-operated lab-

oratory and a Government-owned, contractor-operated laboratory.

(3) INCIDENT.—The term "incident" means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term "intelligent transportation infrastructure" means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term "intelligent transportation system" means electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

(6) NATIONAL ARCHITECTURE.—The term "national architecture" means the common framework for interoperability that defines—

(A) the functions associated with intelligent transportation system user services;

(B) the physical entities or subsystems within which the functions reside;

(C) the data interfaces and information flows between physical subsystems; and

(D) the communications requirements associated with the information flows.

[(2)**]** *(7)* SAFETY.—The term "safety" includes highway and traffic safety systems, research, and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

* * * * * * *

§ 502. Surface transportation **[**research**]** *research, development, and technology*

(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

(1) * * *

(2) FEDERAL RESPONSIBILITY.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when the work—

(A) * * *

(B) addresses current or emerging needs;

[(B) supports research in which there is**]** *(C) delivers* a clear public benefit and private sector investment is less than optimal;

[(C)**]** *(D)* supports a Federal stewardship role in assuring that State and local governments use national resources efficiently; **[**or**]**

[(D)**]** *(E)* presents the best means to support Federal policy goals compared to other policy alternatives**[**.**]***;*

(F) presents the best means to align resources with multiyear plans and priorities; or

(G) ensures the coordination of highway research and technology transfer activities, including those performed by the university transportation centers established under subchapter I of chapter 55 of title 49.

(3) ROLE.—Consistent with these Federal responsibilities, the Secretary shall—

(A) * * *

(B) [support and] *partner with State transportation departments and other stakeholders as appropriate to* facilitate research and technology transfer activities [by State highway agencies];

(C) [share] *communicate* results of *on-going and* completed research; [and]

(D) [support and facilitate technology] *lead efforts to coordinate areas of national emphasis for highway research, technology,* and innovation deployment[.]*;*

(E) leverage partnerships with industry, academia, and other entities; and

(F) conduct, facilitate, and support training and education of current and future transportation professionals.

(4) PROGRAM CONTENT.—A surface transportation research program shall include—

(A) * * *

* * * * * * *

(C) research related to [policy and planning] *all highway objectives seeking to improve the performance of the transportation system*.

(5) STAKEHOLDER INPUT.—Federal surface transportation research and development activities shall address the needs of stakeholders. Stakeholders include States, metropolitan planning organizations, local governments, *tribal governments,* the private sector, researchers, research sponsors, and other affected parties, including public interest groups.

* * * * * * *

[(7) PERFORMANCE REVIEW AND EVALUATION.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation. Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent possible, be outcome-based. All evaluations shall be made readily available to the public.]

(7) PERFORMANCE REVIEW AND EVALUATION.—

(A) IN GENERAL.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation.

(B) PERFORMANCE MEASURES.—Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent practicable, be outcome-based.

(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under this chapter shall be part of a data-driven, outcome-oriented program plan.

(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph shall be made readily available to the public.

(8) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the [surface] transportation research and technology development strategic plan developed under section 508.

(b) GENERAL AUTHORITY.—

(1) * * *

* * * * * * *

[(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508.]

(4) TECHNOLOGICAL INNOVATION.—The Secretary shall ensure that the programs and activities carried out under this chapter are consistent with the transportation research and development strategic plan developed under section 508.

(5) FUNDS.—

(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this [section] *chapter*, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this [section] *chapter* to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this [section] *chapter*.

(6) POOLED FUNDING.—

(A) * * *

* * * * * * *

(C) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary, at the request of a State, may transfer funds apportioned or allocated under this chapter to the State to another State, or to the Federal Highway Administration, for the purpose of funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for projects that are transferred under this subsection.

(7) PRIZE COMPETITIONS.—

(A) IN GENERAL.—Consistent with section 24 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may carry out a program to award prizes competitively to stimulate innovation in the area of surface transportation that has the potential to advance the Federal Highway Administration's research and technology objectives and activities under section 503.

(B) ANNUAL REPORT.—

(i) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate a report on the activities carried out during the preceding fiscal year under the authority in subparagraph (A) if such authority under subparagraph (A) was utilized by the Secretary.

(ii) INFORMATION INCLUDED.—A report under this subparagraph shall include, for each prize competition under subparagraph (A), the following:

(I) A description of the proposed goals of each prize competition.

(II) An analysis of why the utilization of the authority in subparagraph (A) was the preferable method of achieving the goals described in subclause (I) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

(III) The total amount of cash prizes awarded for each prize competition, including a description of the amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the agency for recording as obligations and expenditures.

(IV) The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

(V) A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

(VI) A description of how each prize competition advanced the mission of the Department of Transportation.

(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) * * *

* * * * * * *

(3) FEDERAL SHARE.—

(A) IN GENERAL.—**[**The**]** *Except as otherwise provided in this chapter, the* Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this **[**subsection**]** *chapter* shall not exceed **[**50**]** *80* percent, except that if there is

substantial public interest or benefit, the Secretary may approve a greater Federal share.

* * * * * * *

(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this [subsection] *chapter*, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

* * * * * * *

[(d) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include in surface transportation research, technology development, and technology transfer programs carried out under this title coordinated activities in the following areas:

[(1) Development, use, and dissemination of indicators, including appropriate computer programs for collecting and analyzing data on the status of infrastructure facilities, to measure the performance of the surface transportation systems of the United States, including productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect system performance.

[(2) Methods, materials, and testing to improve the durability of surface transportation infrastructure facilities and extend the life of bridge structures, including—

[(A) new and innovative technologies to reduce corrosion;

[(B) tests simulating seismic activity, vibration, and weather; and

[(C) the use of innovative recycled materials.

[(3) Technologies and practices that reduce costs and minimize disruptions associated with the construction, rehabilitation, and maintenance of surface transportation systems, including responses to natural disasters.

[(4) Development of nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials.

[(5) Dynamic simulation models of surface transportation systems for—

[(A) predicting capacity, safety, and infrastructure durability problems;

[(B) evaluating planned research projects; and

[(C) testing the strengths and weaknesses of proposed revisions to surface transportation system management and operations programs.

[(6) Economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and the feasibility of uniformity in State regulations with respect to such standards.

[(7) Telecommuting and the linkages between transportation, information technology, and community development and the impact of technological change and economic restructuring on travel demand.

[(8) Expansion of knowledge of implementing life cycle cost analysis, including—

[(A) establishing the appropriate analysis period and discount rates;

[(B) learning how to value and properly consider use costs;

[(C) determining tradeoffs between reconstruction and rehabilitation; and

[(D) establishing methodologies for balancing higher initial costs of new technologies and improved or advanced materials against lower maintenance costs.

[(9) Standardized estimates, to be developed in conjunction with the National Institute of Standards and Technology and other appropriate organizations, of useful life under various conditions for advanced materials of use in surface transportation.

[(10) Evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.

[(11) Development and implementation of safety-enhancing equipment, including unobtrusive eyetracking technology.

[(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and nonrecurrent congestion and increase transportation system reliability.

[(13) Investigation of processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations and the impact of good security practices on commerce and productivity.

[(14) Research, development, and technology transfer related to asset management.

[(e) EXPLORATORY ADVANCED RESEARCH.—

[(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508 that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems. In carrying out the program, the Secretary shall strive to develop partnerships with public and private sector entities.

[(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas of surface transportation research and technology as the Secretary determines appropriate, including the following:

[(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

[(B) Assessment of the effects of transportation decisions on human health.

[(C) Development of surrogate measures of safety.

[(D) Environmental research.

[(E) Data acquisition techniques for system condition and performance monitoring.

[(F) System performance data and information processing needed to assess the day-to-day operational performance of the system in support of hour-to-hour operational decisionmaking.

[(f) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

[(1) AUTHORITY.—The Secretary shall continue to carry out, through September 30, 2009, tests, monitoring, and data analysis under the long-term pavement performance program.

[(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

[(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

[(B) analyze the data obtained under subparagraph (A); and

[(C) prepare products to fulfill program objectives and meet future pavement technology needs.

[(g) SEISMIC RESEARCH.—The Secretary shall—

[(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;

[(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

[(A) planning and coordination activities of the National Institute of Standards and Technology under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

[(B) the plan developed by the Director of the National Institute of Standards and Technology under section 8(b) of that Act (42 U.S.C. 7705b(b)); and

[(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, and the National Center for Earthquake Engineering Research at the University of Buffalo, carry out a seismic research program—

[(A) to study the vulnerability of the Federal-aid system and other surface transportation systems to seismic activity;

[(B) to develop and implement cost-effective methods to reduce the vulnerability; and

[(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.

[(h) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

[(1) IN GENERAL.—Not later than July 31, 2006, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

[(A) estimates of the future highway, transit, and bridge needs of the United States; and

[(B) the backlog of current highway, transit, and bridge needs.

[(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

[(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

[(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

[(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—

[(A) the conduct of highway research and development related to new highway technology;

[(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials; and

[(C) the development of innovative highway products and practices.

[(j) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

[(1) AUTHORITY.—The Secretary shall establish a 20-year long-term bridge performance program.

[(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

[(A) monitor, material-test, and evaluate test bridges;

[(B) analyze the data obtained under subparagraph (A); and

[(C) prepare products to fulfill program objectives and meet future bridge technology needs.

[§ 503. Technology deployment

[(a) TECHNOLOGY DEPLOYMENT PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.

[(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of innovative technologies by the surface transportation community.

[(3) DEPLOYMENT GOALS.—

[(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish not more than 5 deployment goals to carry out paragraph (1).

[(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

[(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initia-

tives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

[(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to disseminate the results of research sponsored by the Secretary and to facilitate technology transfer.

[(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

[(6) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

[(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

[(A) IN GENERAL.—Under the program, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities concerning innovative materials.

[(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the grant meets the purpose of the program described in paragraph (2).

[(8) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under paragraph (7) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

[(9) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for their use.

[(b) INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.—

[(1) IN GENERAL.—The Secretary shall establish and carry out a program to promote, demonstrate, evaluate, and document the application of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges and other highway structures.

[(2) GOALS.—The goals of the program shall include—

[(A) the development of new, cost-effective, innovative highway bridge applications;

[(B) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

[(C) the development of engineering design criteria for innovative products, materials, and structural systems for use in highway bridges and structures;

[(D) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

[(E) the development of highway bridges and structures that will withstand natural disasters;

[(F) the documentation and wide dissemination of objective evaluations of the performance and benefits of these innovative designs, materials, and construction methods;

[(G) the effective transfer of resulting information and technology; and

[(H) the development of improved methods to detect bridge scour and economical bridge foundation designs that will withstand bridge scour.

[(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

[(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

[(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

[(ii) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrate the application of innovative materials.

[(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the grant meets the goals of the program described in paragraph (2).

[(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

[(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

[(c) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—

[(1) IN GENERAL.—The Secretary shall establish and implement a program to promote, demonstrate, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

[(2) GOALS.—The goals of the innovative pavement research and deployment program shall include—

[(A) the deployment of new, cost-effective, innovative designs, materials, recycled materials (including taconite

tailings and foundry sand), and practices to extend pavement life and performance and to improve customer satisfaction;

[(B) the reduction of initial costs and life-cycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

[(C) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

[(D) the deployment of engineering design criteria and specifications for innovative practices, products, and materials for use in highway pavements;

[(E) the deployment of new nondestructive and real-time pavement evaluation technologies and techniques;

[(F) the evaluation, refinement, and documentation of the performance and benefits of innovative technologies deployed to improve life, performance, cost effectiveness, safety, and customer satisfaction;

[(G) effective technology transfer and information dissemination to accelerate implementation of innovative technologies and to improve life, performance, cost effectiveness, safety, and customer satisfaction; and

[(H) the development of designs and materials to reduce storm water runoff.

[(3) RESEARCH TO IMPROVE NHS PAVEMENT.—The Secretary shall obligate for each of fiscal years 2006 through 2009 from funds made available to carry out this subsection, $4,100,000 to conduct research to improve asphalt pavement, $4,100,000 to conduct research to improve concrete pavement, $4,100,000 to conduct research to improve alternative materials used in highways (including alternative materials used in highway drainage applications), and $2,450,000 to conduct research to improve aggregates used in highways on the National Highway System.

[(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

[(1) IN GENERAL.—The Secretary shall establish and implement a program to demonstrate the application of innovative technologies in highway safety.

[(2) GOALS.—The goals of the program shall include—

[(A) the deployment and evaluation of safety technologies and innovations at State and local levels; and

[(B) the deployment of best practices in training, management, design, and planning.

[(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

[(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations for research, development, and technology transfer for innovative safety technologies.

[(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application at such time and containing such information as the Secretary may require. The Secretary shall select and approve an application

based on whether the project that is the subject of the application meets the goals of the program described in paragraph (2).

[(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

[(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the recruitment of individuals and to promote the programs of the Federal Highway Administration.]

§ 503. Research and development

(a) IN GENERAL.—The Secretary shall establish a research and development program in accordance with this section and the strategic plan developed under section 508.

(b) RESPONSIBILITIES.—To address current and emerging highway transportation needs, the Secretary, in carrying out the program under this section, shall—

(1) identify research topics;

(2) conduct research, testing, and evaluation activities;

(3) facilitate technology transfer;

(4) provide technical assistance; and

(5) ensure program activities are coordinated with the transportation research and development strategic plan developed under section 508.

(c) IMPROVING HIGHWAY SAFETY.—

(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall create systematic measures to improve highway safety for all road users, vehicles, and public roads to—

(A) achieve greater long-term safety gains;

(B) reduce the number of fatalities and serious injuries;

(C) fill knowledge gaps that currently limit the effectiveness of research;

(D) support the development and implementation of State strategic highway safety plans under section 148;

(E) advance improvements in and use of performance prediction analysis for decisionmaking;

(F) expand technology transfer to partners and stakeholders;

(G) achieve safety benefits through connected vehicle technology; and

(H) enhance rural highway safety.

(2) ACTIVITIES.—Research and development activities carried out under this subsection may include activities relating to—

(A) safety assessments and decisionmaking tools;

(B) data collection and analysis;

(C) crash reduction projections;

(D) low-cost safety countermeasures;

(E) innovative operational improvements and designs of roadway and roadside features;

(F) evaluation of countermeasure costs and benefits;

(G) development of tools for projecting impacts of safety countermeasures;

(H) rural road safety;

(I) safety policy studies;

(J) human factors studies and methods;

(K) safety technology deployment;

(L) safety program and process improvements; and

(M) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

(d) IMPROVING HIGHWAY INFRASTRUCTURE INTEGRITY.—

(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall improve the ability to maintain highway infrastructure integrity, meet user needs, and improve system performance through targeted Federal transportation investments to—

(A) reduce the number of fatalities attributable to highway infrastructure design characteristics and work zones;

(B) improve the safety of highway infrastructure;

(C) increase the reliability of life-cycle performance predictions used in highway infrastructure design, construction, and management;

(D) improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

(E) reduce user delay attributable to highway infrastructure system performance, maintenance, rehabilitation, and construction;

(F) improve highway condition and performance through increased use of innovative pavements during highway design, construction, and maintenance;

(G) improve highway condition and performance through increased use of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges;

(H) reduce the life-cycle environmental impacts of highway infrastructure, including design, construction, operation, preservation, and maintenance; and

(I) improve the resiliency of roadways to commercial heavy freight traffic.

(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include activities relating to—

(A) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

(B) short-term and accelerated studies of highway infrastructure performance;

(C) the development of more durable highway and bridge infrastructure materials and systems, including the use of carbon fiber composite materials in bridge replacement and rehabilitation;

(D) advanced highway and bridge infrastructure design methods;

(E) accelerated highway construction;

(F) performance-based specifications;

(G) construction and materials quality assurance;

(H) comprehensive and integrated highway infrastructure asset management;

(I) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, stormwater runoff, and flooding and to treat or remove pollutants by allowing stormwater to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions;

(J) sustainable highway infrastructure design and construction;

(K) highway and bridge infrastructure rehabilitation and preservation techniques, including those techniques to address historic infrastructure;

(L) hydraulic, geotechnical, and aerodynamic aspects of highway infrastructure;

(M) improved highway construction technologies and practices;

(N) improved tools, technologies, and models for highway and bridge infrastructure management, including assessment and monitoring of infrastructure condition;

(O) improving flexibility and resiliency of highway and bridge infrastructure systems to withstand climate variability; and

(P) highway infrastructure resilience and other adaptation measures.

(e) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall examine approaches to reduce traffic congestion (including freight-related congestion throughout the transportation network), reduce the costs of such congestion, and improve freight movement.

(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include examination of—

(A) active traffic and demand management;

(B) accelerating deployment of intelligent transportation systems;

(C) arterial management and traffic signal operation;

(D) congestion pricing;

(E) corridor management;

(F) emergency operations;

(G) freeway management;

(H) impacts of vehicle size and weight;

(I) freight operations and technology;

(J) operations and freight performance measurement and management;

(K) organizing and planning for operations;

(L) planned special events management;

(M) real-time transportation information, including real-time ridesharing;

(N) road weather management;

(O) traffic and freight data and analysis tools;

(P) traffic control devices;

(Q) traffic incident management;

(R) workzone management;

(S) mechanisms that communicate travel, roadway, and emergency information to all road users (as defined in section 148); and

(T) enhanced mode choice and intermodal connectivity.

(f) ASSESSING POLICY AND SYSTEM FINANCING ALTERNATIVES.—

(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall conduct policy analysis on emerging issues in the transportation community to provide information to policymakers and decisionmakers.

(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include activities relating to—

(A) highway needs and investment analysis;

(B) analysis of legislative development and implementation;

(C) highway policy analysis;

(D) the effect of highway congestion on the economy;

(E) research in emerging policy areas;

(F) advancing innovations in revenue generation, financing, and procurement for project delivery;

(G) improving project financial and cost analysis;

(H) highway performance measurement;

(I) travel demand performance measurement; and

(J) highway finance performance measurement.

(3) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

(A) IN GENERAL.—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of highway and bridge needs at the time of the report.

(B) COMPARISON.—Each report under subparagraph (A) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

(g) EXPLORATORY ADVANCED RESEARCH.—In carrying out the program under this section, the Secretary shall conduct long-term, higher-risk research, consistent with the transportation research and development plan under section 508, with the potential for dramatic breakthroughs in the field of highway transportation.

(h) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

(1) IN GENERAL.—In carrying out the program under this section, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities.

(2) APPLICATIONS.—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and

contain such information and assurances as the Secretary may require.

(3) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.

(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

(2) USES OF THE CENTER.—The Center shall support—

(A) the conduct of highway research and development related to new highway technology, including connected vehicle technology;

(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

(C) the development of innovative highway products and practices; and

(D) long-term high-risk research to improve the materials used in highway infrastructure.

(j) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

(1) ESTABLISHMENT.—The Secretary may establish not more than 4 centers for surface transportation excellence.

(2) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation.

(3) ROLE OF THE CENTERS.—To achieve the goals set forth in paragraph (2), the Secretary shall establish centers that provide technical assistance, information sharing of best practices, and training in the use of tools and decisionmaking processes that can assist States in effectively implementing surface transportation programs, projects, and policies.

(4) PROGRAM ADMINISTRATION.—

(A) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary under this subsection, or receiving a grant to perform research or provide technical assistance under this subsection, shall be selected on a competitive basis.

(B) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan, and submit the plan to the Secretary at such time as the Secretary requires, that describes—

(i) the activities to be undertaken by the center; and

(ii) how the work of the center will be coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this chapter.

(5) FUNDING.—Of the amounts made available by section 7001(a)(1) of the American Energy and Infrastructure Jobs Act

of 2012, not more than $3,000,000 for each of fiscal years 2013 through 2016 shall be available to carry out this subsection.

§ 503a. Technology and innovation deployment program

(a) IN GENERAL.—The Secretary, in accordance with the strategic plan developed under section 508, shall carry out a technology and innovation deployment program on all aspects of highway transportation by promoting and facilitating the products, technologies, tools, methods, or other findings resulting from highway research conducted under this chapter.

(b) OBJECTIVES.—The Secretary shall seek to advance the following objectives:

(1) Significantly accelerate the adoption of innovative technologies by the surface transportation community.

(2) Significantly accelerate the adoption of advanced modeling technologies, as described in section 106, by the surface transportation community.

(3) Provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

(4) Advance longer-lasting highways using innovative technologies and practices to accomplish more rapid construction of efficient and safe highways and bridges.

(5) Improve highway efficiency, safety, mobility, reliability, service life, and environmental protection.

(6) Develop and deploy new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

(7) Enhance deployment and operations of intelligent transportation systems.

(c) ACTIVITIES.—The program may include—

(1) activities conducted under section 503;

(2) other technologies and innovations requiring additional development and testing not performed under section 503 but necessary to bring about successful deployment and delivery; and

(3) developing and improving innovative technologies and practices and exploring new technologies to accelerate innovation adoption.

(d) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

(1) IN GENERAL.—Under the program, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, private sector entities, Federal laboratories, and nonprofit organizations to pay the Federal share of the cost of research, development, and deployment activities.

(2) APPLICATIONS.—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and contain such information and assurances as the Secretary may require.

(3) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.

(e) DEPLOYMENT OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM RESULTS AND PRODUCTS.—

(1) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the National Academy of Sciences, shall promote research results and products developed under the Strategic Highway Research Program 2 administered by the Transportation Research Board of the National Academy of Sciences.

(2) STRATEGY OF PROMOTION.—The Secretary, to the extent practicable, shall base the deployment of research results and products described in paragraph (1) on the recommendations included in the Transportation Research Board Special Report 296 entitled "Implementing the Results of the Second Strategic Highway Research Program: Saving Lives, Reducing Congestion, Improving Quality of Life".

§ 504. Training and education

(a) NATIONAL HIGHWAY INSTITUTE.—

(1) * * *

(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

[(A) Federal Highway Administration, State, and local transportation agency employees;**]**

(A) Federal Highway Administration employees, State and local transportation agency employees, and Federal agency partners;

* * * * * * *

(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

(1) * * *

* * * * * * *

[(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.**]**

(3) FEDERAL SHARE.—

(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—Subject to clause (ii), the Federal share of the cost of any activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent, except that the remaining share may include funds provided to a recipient under subsection (e) or section 505.

(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.

(c) RESEARCH FELLOWSHIPS.—

(1) * * *

(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation. The program shall be known as the "Dwight David Eisenhower Transportation Fellowship Program". *Funds provided to institutions of higher education to carry out this paragraph shall be used in direct support of student expenses associated with their transportation studies.*

[(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—

[(1) IN GENERAL.—The Secretary shall establish the Garrett A. Morgan Technology and Transportation Education Program to improve the preparation of students, particularly women and minorities, in science, technology, engineering, and mathematics through curriculum development and other activities related to transportation.

[(2) AUTHORIZED ACTIVITIES.—The Secretary shall award grants under this subsection on the basis of competitive peer review. Grants awarded under this subsection may be used for enhancing science, technology, engineering, and mathematics at the elementary and secondary school level through such means as—

[(A) internships that offer students experience in the transportation field;

[(B) programs that allow students to spend time observing scientists and engineers in the transportation field; and

[(C) developing relevant curriculum that uses examples and problems related to transportation.

[(3) APPLICATION AND REVIEW PROCEDURES.—

[(A) IN GENERAL.—An entity described in subparagraph (C) seeking funding under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application, at a minimum, shall include a description of how the funds will be used to serve the purposes described in paragraph (2).

[(B) PRIORITY.—In making awards under this subsection, the Secretary shall give priority to applicants that will encourage the participation of women and minorities.

[(C) ELIGIBILITY.—Local educational agencies and State educational agencies, which may enter into a partnership agreement with institutions of higher education, businesses, or other entities, shall be eligible to apply for grants under this subsection.

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

[(A) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

[(B) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in sec-

tion 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

[(C) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).]

[(e)] *(d)* SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—

(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under [sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)] *paragraphs (1), (2), and (3) of section 104(b)* for surface transportation workforce development, training, and education, including—

(A) * * *

* * * * * * *

(D) university or community college support; [and]

(E) education activities, including outreach, to develop interest and promote participation in surface transportation careers[.]*;*

(F) activities delivered by the National Highway Institute under subsection (a); and

(G) the local technical assistance program under subsection (b).

(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent*, except for activities carried out under paragraph (1)(G), for which the Federal share shall be 50 percent as described in subsection (b)(3)(A)*.

* * * * * * *

[(f)] *(e)* TRANSPORTATION EDUCATION DEVELOPMENT [PILOT] PROGRAM.—

(1) * * *

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[(g)] *(f)* FREIGHT CAPACITY BUILDING PROGRAM.—

(1) * * *

* * * * * * *

§ 505. State planning and research

(a) GENERAL RULE.—Two percent of the sums apportioned to a State for fiscal year 1998 and each fiscal year thereafter under section 104 (other than sections 104(f) and [104(h)) and under section 144] *104(i))* shall be available for expenditure by the State, in consultation with the Secretary, only for the following purposes:

(1) * * *

* * * * * * *

(5) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, *intercity bus,* and intermodal transportation systems.

* * * * * * *

(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities described in subsection (a), relating to highway, public transportation, *intercity bus,* and intermodal transportation systems.

* * * * * * *

[§ 506. International highway transportation outreach program

[(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

[(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

[(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

[(3) to increase transfers of United States highway transportation technology to foreign countries.

[(b) ACTIVITIES.—Activities carried out under the program may include—

[(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

[(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

[(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

[(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

[(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

[(6) the gathering and dissemination of information on foreign transportation markets and industries.

[(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—

[(1) Federal, State, or local agency;

[(2) authority, association, institution, or organization;

[(3) for-profit or nonprofit corporation;

[(4) national or international entity;

[(5) foreign country; or

[(6) person.

[(d) FUNDS.—

[(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

[(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

[(A) promotional materials;

[(B) travel;

[(C) reception and representation expenses; and

[(D) salaries and benefits.

[(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department employees providing services under this section shall be credited to the account.

[(e) REPORT.—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.

[§ 507. Surface transportation-environment cooperative research program

[(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

[(b) CONTENTS.—The program carried out under this section may include research—

[(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

[(2) to improve understanding of the factors that contribute to the demand for transportation;

[(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

[(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

[(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

[(c) PROGRAM ADMINISTRATION.—The Secretary shall—

[(1) administer the program established under this section; and

[(2) ensure, to the maximum extent practicable, that—

[(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

[(i) on the basis of merit of each submitted proposal; and

[(ii) through the use of open solicitations and selection by a panel of appropriate experts;

[(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

[(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

[(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 510.

[(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.]

§ 508. Transportation research and development strategic planning

(a) IN GENERAL.—

(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of the [SAFETEA-LU] *American Energy and Infrastructure Jobs Act of 2012*, the Secretary*, acting through the Administrator of the Research and Innovative Technology Administration,* shall develop a 5-year transportation research and development strategic plan to guide Federal transportation research and development activities. This plan shall be consistent with section 306 of title 5, sections 1115 and 1116 of title 31, and any other research and development plan within the Department of Transportation.

(2) CONTENTS.—The strategic plan developed under paragraph (1) shall—

(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

(i) * * *

* * * * * * *

(iii) [promoting security] *improving goods movement*;

* * * * * * *

[§ 509. National cooperative freight transportation research program

[(a) ESTABLISHMENT.—The Secretary shall establish and support a national cooperative freight transportation research program.

[(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences to support and carry out administrative and management activities relating to the governance of the national cooperative freight transportation research program.

[(c) ADVISORY COMMITTEE.—The National Academy of Sciences shall select an advisory committee consisting of a representative cross-section of freight stakeholders, including the Department of Transportation, other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

[(d) GOVERNANCE.—The national cooperative freight transportation research program established under this section shall include the following administrative and management elements:

[(1) NATIONAL RESEARCH AGENDA.—The advisory committee, in consultation with interested parties, shall recommend a national research agenda for the program. The agenda shall include a multiyear strategic plan.

[(2) INVOLVEMENT.—Interested parties may—

[(A) submit research proposals to the advisory committee;

[(B) participate in merit reviews of research proposals and peer reviews of research products; and

[(C) receive research results.

[(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The National Academy of Sciences may award research contracts and grants under the program through open competition and merit review conducted on a regular basis.

[(4) EVALUATION OF RESEARCH.—

[(A) PEER REVIEW.—Research contracts and grants under the program may allow peer review of the research results.

[(B) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis of research contracts and grants.

[(5) DISSEMINATION OF RESEARCH FINDINGS.—The National Academy of Sciences shall disseminate research findings to researchers, practitioners, and decisionmakers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to government officials, the World Wide Web, publications for the general public, and other appropriate means.

[(e) CONTENTS.—The national research agenda required under subsection (d)(1) shall include research in the following areas:

[(1) Techniques for estimating and quantifying public benefits derived from freight transportation projects.

[(2) Alternative approaches to calculating the contribution of truck and rail traffic to congestion on specific highway segments.

[(3) The feasibility of consolidating origins and destinations for freight movement.

[(4) Methods for incorporating estimates of international trade into landside transportation planning.

[(5) The use of technology applications to increase capacity of highway lanes dedicated to truck-only traffic.

[(6) Development of physical and policy alternatives for separating car and truck traffic.

[(7) Ways to synchronize infrastructure improvements with freight transportation demand.

[(8) The effect of changing patterns of freight movement on transportation planning decisions relating to rest areas.

[(9) Other research areas to identify and address emerging and future research needs related to freight transportation by all modes.

[(f) FUNDING.—

[(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent.

[(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized for this section, the National Academy of Sciences may seek and accept additional funding sources from public and private entities capable of accepting funding from the Department of Transportation, States, local governments, nonprofit foundations, and the private sector.

[(3) PERIOD OF AVAILABILITY.—Amounts made available to carry out this section shall remain available until expended.

[§ 510. Future strategic highway research program

[(a) ESTABLISHMENT.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials, shall establish and carry out, acting through the National Research Council of the National Academy of Sciences, the future strategic highway research program.

[(b) COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the American Association of State Highway and Transportation Officials and the National Academy of Sciences to carry out such activities under this section as the Secretary determines are appropriate.

[(c) PROGRAM PRIORITIES.—

[(1) PROGRAM ELEMENTS.—The program established under this section shall be based on the National Research Council Special Report 260, entitled "Strategic Highway Research: Saving Lives, Reducing Congestion, Improving Quality of Life" and the results of the detailed planning work subsequently carried out in 2002 and 2003 to identify the research areas through National Cooperative Research Program Project 20-58. The research program shall include an analysis of the following:

[(A) Renewal of aging highway infrastructure with minimal impact to users of the facilities.

[(B) Driving behavior and likely crash causal factors to support improved countermeasures.

[(C) Reducing highway congestion due to nonrecurring congestion.

[(D) Planning and designing new road capacity to meet mobility, economic, environmental, and community needs.

[(2) DISSEMINATION OF RESULTS.—The research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers for their use, as soon as practicable.

[(d) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

[(1) projects and researchers are selected to conduct research for the program on the basis of merit and open solicitation of proposals and review by panels of appropriate experts;

[(2) State department of transportation officials and other stakeholders, as appropriate, are involved in the governance of the program at the overall program level and technical level through the use of expert panels and committees;

[(3) the Council acquires a qualified, permanent core staff with the ability and expertise to manage the program and multiyear budget; and

[(4) there is no duplication of research effort between the program and any other research effort of the Department.

[(e) REPORT ON IMPLEMENTATION OF RESULTS.—

[(1) REPORT.—The Transportation Research Board of the National Research Council shall complete a report on the strategies and administrative structure to be used for implementation of the results of the future strategic highway research program.

[(2) COMPONENTS.—The report under paragraph (1) shall include with respect to the program—

[(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

[(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

[(C) an estimate of costs of implementation of those results; and

[(D) recommendations on methods by which implementation of those results should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those recommendations.

[(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

[(A) the Federal Highway Administration;

[(B) the National Highway Traffic Safety Administration; and

[(C) the American Association of State Highway and Transportation Officials.

[(4) SUBMISSION.—Not later than February 1, 2009, the report shall be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

[(f) FUNDING.—

[(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using amounts made available under a grant or cooperative agreement under this section shall be 100 percent, and such funds shall remain available until expended.

[(2) ADVANCE PAYMENTS.—The Secretary may make advance payments as necessary to carry out the program under this section.

[(g) LIMITATION OF REMEDIES.—

[(1) SAME REMEDY AS IF UNITED STATES.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for injury, loss of property, personal injury, or death shall apply to any claim against the National Academy of Sciences for money damages for injury, loss of property, per-

sonal injury, or death caused by any negligent or wrongful act or omission by employees and individuals described in paragraph (3) arising from activities conducted under or in connection with this section. Any such claim shall be subject to the limitations and exceptions which would be applicable to such claim if such claim were against the United States. With respect to any such claim, the Secretary shall be treated as the head of the appropriate Federal agency for purposes of sections 2672 and 2675 of title 28.

[(2) EXCLUSIVENESS OF REMEDY.—The remedy referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining liability arising from any such act or omission without regard to when the act or omission occurred.

[(3) TREATMENT.—Employees of the National Academy of Sciences and other individuals appointed by the president of the National Academy of Sciences and acting on its behalf in connection with activities carried out under this section shall be treated as if they are employees of the Federal Government under section 2671 of title 28 for purposes of a civil action or proceeding with respect to a claim described in paragraph (1). The civil action or proceeding shall proceed in the same manner as any proceeding under chapter 171 of title 28 or action against the United States filed pursuant to section 1346(b) of title 28 and shall be subject to the limitations and exceptions applicable to such a proceeding or action.

[(4) SOURCES OF PAYMENTS.—Payment of any award, compromise, or settlement of a civil action or proceeding with respect to a claim described in paragraph (1) shall be paid first out of insurance maintained by the National Academy of Sciences, second from funds made available to carry out this section, and then from sums made available under section 1304 of title 31. For purposes of such section, such an award, compromise, or settlement shall be deemed to be a judgment, award, or settlement payable under section 2414 or 2672 of title 28. The Secretary may establish a reserve of funds to carry out this section for making payments under this paragraph.

[(h) IMPLEMENTATION.—Notwithstanding any other provision of this section, the Secretary may use funds made available to carry out this section for implementation of research products related to the future strategic highway research program, including development, demonstration, evaluation, and technology transfer activities.]

* * * * * * *

§ 512. National [ITS] *intelligent transportation systems* program plan

(a) IN GENERAL.—

(1) UPDATES.—Not later than 1 year after the date of enactment of the [SAFETEA-LU] *American Energy and Infrastructure Jobs Act of 2012*, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National Intelligent Transpor-

tation System (in this section referred to as "ITS") program plan.

* * * * * * *

§ 513. Use of funds for [ITS] *intelligent transportation systems* activities

(a) IN GENERAL.—For each fiscal year, not more than $250,000 of the funds made available to carry out this [subtitle C of title V of the SAFETEA-LU] *section 7001(a)(4) of the American Energy and Infrastructure Jobs Act of 2012* shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

* * * * * * *

§ 514. Intelligent transportation systems program goals and purposes

(a) GOALS.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, and bicycles and pedestrians, including individuals with disabilities; and

(5) improvement of the Nation's ability to respond to emergencies and natural disasters.

(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) promote the innovative use of private resources;

(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

(8) provide continuing support for operations and maintenance of intelligent transportation systems.

§ 515. Intelligent transportation systems program general authority and requirements

(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, private sector firms in the United States, Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this chapter; and

(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) AGREEMENT.—

(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance

of the repository, the entity shall be eligible for Federal financial assistance under this section.

(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

(h) INFRASTRUCTURE DEVELOPMENT.—Funds made available to carry out this chapter for operational tests—

(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

§ 516. Intelligent transportation systems research and development

(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this chapter.

(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

(6) enhance safety through improved crash avoidance and protection, crash and other emergency personnel notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

§ 517. Intelligent transportation systems national architecture and standards

(a) IN GENERAL.—

(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a

national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

(b) PROVISIONAL STANDARDS.—

(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.

(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this chapter, to deploy intelligent transportation system technologies conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508; or

(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of the SAFETEA-LU if the Secretary determines that the upgrade or expansion—

(i) would not adversely affect the goals or purposes of this chapter;

(ii) is carried out before the end of the useful life of such system; and

(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of the SAFETEA-LU.

(d) STANDARD DEFINED.—The term "standard" means a document that—

(1) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

(2) may support the national architecture and promote—

(A) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

(B) interoperability among intelligent transportation system technologies implemented throughout the States.

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CHAPTER 6—INFRASTRUCTURE FINANCE

Sec.
601. Generally applicable provisions.
[602. Determination of eligibility and project selection.]
602. Project applications and determinations of eligibility.

* * * * * * *

611. State infrastructure bank capitalization.

§ 601. Generally applicable provisions

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

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost *(regardless of when incurred)* of—

(A) * * *

* * * * * * *

(2) CONTINGENT COMMITMENT.—The term "contingent commitment" means a commitment to obligate an amount from future available budget authority, but is not an obligation of the Federal Government.

[(2)] *(3)* FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

[(3)] *(4)* INVESTMENT-GRADE RATING.—The term "investment-grade rating" means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

[(4)] *(5)* LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) * * *

* * * * * * *

[(5)] *(6)* LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor

under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

[(6)] *(7)* LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(8) MASTER CREDIT AGREEMENT.—The term "master credit agreement" means an agreement entered into by and between the Secretary and an obligor for a project that—

(A) makes contingent commitments of one or more secured loans or other Federal credit instruments at future dates, subject to the provision of future budget authority;

(B) establishes the amounts and general terms and conditions of such secured loans or other Federal credit instruments;

(C) identifies the dedicated revenue sources that will secure the repayment of such secured loans or other Federal credit instruments, which may differ by project; and

(D) provides for the obligation of funds for such a secured loan or other Federal credit instrument, subject to the provision of future budget authority, for a project included in the agreement after all requirements under this section have been met for the project.

[(7)] *(9)* OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, *limited liability company,* partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

[(8)] *(10)* PROJECT.—The term "project" means—

(A) * * *

* * * * * * *

(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; [and]

(D) a project that—

(i) * * *

* * * * * * *

(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port[.]*;*

(E) a program of related transportation projects that—

(i) are coordinated to achieve a common transportation goal;

(ii) are eligible for funding under this title or chapter 53 of title 49; and

(iii) together receive not more than 30 percent of their funding for capital costs from Federal grant funds made available under this title or chapter 53 of title 49; and

(F) a highway, transit, or pedestrian project, or grouping of projects, that—

(i) improves mobility; and

(ii) is located within the station area of a transit, passenger rail, or intercity bus station.

[(9)] *(11)* PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

[(10)] *(12)* RATING AGENCY.—The term "rating agency" means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934.

(13) RURAL INFRASTRUCTURE PROJECT.—The term "rural infrastructure project" means a surface transportation infrastructure project located in any area other than an urbanized area that has a population of greater than 250,000 inhabitants.

[(11)] *(14)* SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

[(12)] *(15)* STATE.—The term "State" has the meaning given the term in section 101.

[(13)] *(16)* SUBSIDY AMOUNT.—The term "subsidy amount" means the amount of budget authority*, or other source of funds provided pursuant to section 608(c)(2),* sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

[(14)] *(17)* SUBSTANTIAL COMPLETION.—The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

* * * * * * *

[§ 602. Determination of eligibility and project selection

[(a) ELIGIBILITY.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

[(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

[(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application to the Secretary.

[(3) ELIGIBLE PROJECT COSTS.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

[(i) $50,000,000; or

[(ii) 33⅓ percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

[(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $15,000,000.

[(4) DEDICATED REVENUE SOURCES.—The Federal credit instrument shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the project obligations.

[(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

[(b) SELECTION AMONG ELIGIBLE PROJECTS.—

[(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility requirements specified in subsection (a).

[(2) SELECTION CRITERIA.—

[(A) IN GENERAL.—The selection criteria shall include the following:

[(i) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

[(ii) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment.

[(iii) The extent to which assistance under this chapter would foster innovative public-private partnerships and attract private debt or equity investment.

[(iv) The likelihood that assistance under this chapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

[(v) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

[(vi) The amount of budget authority required to fund the Federal credit instrument made available under this chapter.

[(vii) The extent to which the project helps maintain or protect the environment.

[(viii) The extent to which assistance under this chapter and chapter 1 would reduce the contribution of Federal grant assistance to the project.

[(B) PRELIMINARY RATING OPINION LETTER.—For purposes of subparagraph (A)(ii), the Secretary shall require each project applicant to provide a preliminary rating

opinion letter from at least 1 rating agency indicating that the project's senior obligations, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating.

[(c) FEDERAL REQUIREMENTS.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for transit projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

[(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

[(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).]

§ 602. Project applications and determinations of eligibility

(a) PROJECT APPLICATIONS.—

(1) IN GENERAL.—A State, local government, agency or instrumentality of a State or local government, public authority, private party to a public-private partnership, or any other legal entity undertaking a project may submit to the Secretary an application requesting financial assistance under this chapter for the project.

(2) MASTER CREDIT AGREEMENTS.—An application submitted under paragraph (1) may request that financial assistance under this chapter be provided under a master credit agreement.

(3) APPLICATIONS WHERE OBLIGOR WILL BE IDENTIFIED LATER.—A State, local government, agency or instrumentality of a State or local government, or public authority may submit an application to the Secretary under paragraph (1) under which a private party to a public-private partnership will be the obligor and will be identified later through completion of a procurement and selection of the private party.

(b) ELIGIBILITY.—

(1) APPROVAL.—The Secretary shall approve an application submitted under subsection (a)(1) for each project that meets the criteria specified in paragraph (2).

(2) CRITERIA.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

(A) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programmatic requirements of sections 5203 and 5204 of title 49—

(i) in the case of an application for financial assistance to be provided under a master credit agreement, at such time as credit assistance is provided for the project pursuant to the master credit agreement; and

(ii) in the case of any other project application, at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

(B) CREDITWORTHINESS.—

(i) IN GENERAL.—The project shall satisfy applicable creditworthiness standards, including, at a minimum—

(I) a rate covenant, if applicable;

(II) adequate coverage requirements to ensure repayment;

(III) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

(IV) a rating from at least 2 rating agencies on the Federal credit instrument.

(ii) AMOUNTS LESS THAN $75,000,000.—Notwithstanding clauses (i)(III) and (i)(IV), if the senior debt and Federal credit instrument is for an amount less than $75,000,000, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

(iii) FEDERAL CREDIT INSTRUMENTS THAT ARE THE SENIOR DEBT.—Notwithstanding clauses (i)(III) and (i)(IV), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies.

(C) ELIGIBLE PROJECT COSTS.—The eligible costs of the project—

(i) in the case of a project described in section 601(a)(9)(F) or a project principally involving the installation of an intelligent transportation system, shall be reasonably anticipated to equal or exceed $15,000,000;

(ii) in the case of a project for which financial assistance will be provided under a master credit agreement, shall be reasonably anticipated to equal or exceed $1,000,000,000;

(iii) in the case of a rural infrastructure project, shall be reasonably anticipated to equal or exceed $25,000,000; and

(iv) in the case of any other project, shall be reasonably anticipated to equal or exceed the lesser of—

(I) $50,000,000; or

(II) 33⅓ percent of the amount apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to the State in which the project is located for Federal-aid highway and highway safety construction programs for the most recently completed fiscal year.

(D) DEDICATED REVENUE SOURCES.—The Federal credit instrument for the project shall be repayable, in whole or in part, from tolls, user fees, payments owing to the obligor under a public-private partnership, or other dedicated revenue sources that also secure or fund the project obligations.

(E) REGIONAL SIGNIFICANCE.—The project shall be regionally significant (as defined in regulations imple-

menting sections 134 and 135 (as in effect on the day before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012)) or otherwise significantly enhance the national transportation system.

(F) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project undertaken by an entity that is not a State or local government (or an agency or instrumentality of a State or local government), the project shall be publicly sponsored as provided under subsection (a).

(G) BENEFICIAL EFFECTS.—The Secretary shall determine that financial assistance for the project under this chapter will—

(i) foster an innovative public-private partnership and attract private debt or equity investment for the project;

(ii) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the project's life cycle costs, including debt service costs; and

(iii) reduce the contribution of Federal grant assistance for the project.

(H) PROJECT READINESS.—The applicant shall demonstrate that the contracting process for construction of the project can be commenced not later than 90 days after the date on which a Federal credit instrument is secured for the project under this chapter.

(c) PRELIMINARY RATING OPINION LETTER.—For purposes of subsection (b)(2)(B), the Secretary shall require each applicant for a project to provide a preliminary rating opinion letter from at least 1 rating agency indicating that the project's senior obligations, which may consist, in whole or in part, of the Federal credit instrument, have the potential to achieve an investment-grade rating.

(d) APPROVAL OF APPLICATIONS AND FUNDING.—

(1) IN GENERAL.—The Secretary shall—

(A) approve applications for projects that meet the criteria specified in subsection (b)(2) in the order in which the Secretary receives the applications; and

(B) commit or conditionally commit budget authority for projects, out of amounts made available to carry out this chapter for a fiscal year, in the order in which the Secretary approves the applications for such projects.

(2) INSUFFICIENT FUNDS.—If the Secretary approves an application submitted under subsection (a)(1) for a project in a fiscal year, but is unable to provide financial assistance for the project in that fiscal year as a result of prior commitments or conditional commitments of budget authority under this chapter, the Secretary shall provide the project sponsor with the option of receiving such financial assistance as soon as sufficient budget authority is made available to carry out this chapter in a subsequent fiscal year.

(e) PROCEDURES FOR DETERMINING PROJECT ELIGIBILITY.—

(1) ESTABLISHMENT.—The Secretary shall establish procedures for—

(A) processing applications received under subsection (a)(1) requesting financial assistance for projects; and

(B) approving or disapproving the applications based on whether the projects meet the criteria specified in subsection (b)(2).

(2) APPLICATION PROCESSING PROCEDURES.—The procedures shall meet the following requirements:

(A) The procedures may not restrict when applications may be filed.

(B) The procedures shall ensure that—

(i) the Secretary will provide written notice to an applicant, on or before the 15th day following the date of receipt of the applicant's application, informing the applicant of whether the application is complete;

(ii) if the application is complete, the Secretary will provide written notice to the applicant, on or before the 60th day following the date of issuance of written notice for the application under clause (i), informing the applicant of whether the Secretary has approved or disapproved the application;

(iii) if the application is not complete, the Secretary will provide written notice to the applicant, together with the written notice issued for the application under clause (i), informing the applicant of the information and materials needed to complete the application; and

(iv) if the Secretary does not provide written notice to an applicant under clause (i) in the 15-day period specified in clause (i)—

(I) the applicant's application is deemed complete; and

(II) the Secretary will provide written notice to the applicant, on or before the 60th day following the last day of such 15-day period, informing the applicant of whether the Secretary has approved or disapproved the application.

(C) The procedures may not use eligibility criteria that are supplemental to those established by this chapter.

(D) In accordance with subsection (b)(1), the procedures shall require approval of an application if the project meets the eligibility criteria specified in subsection (b)(2).

(E) The procedures shall require that any written notice of disapproval of an application identify the eligibility criteria that were not satisfied and contain an explanation of the deficiencies that resulted in failure to meet such criteria.

(3) SPECIAL RULES FOR MASTER CREDIT AGREEMENTS.—The Secretary shall issue special rules for—

(A) processing applications under which financial assistance will be provided under a master credit agreement; and

(B) approving or disapproving such applications based on whether the proposed project or program of related projects meets the applicable eligibility criteria specified in section 601(a)(7).

(f) APPLICATION APPROVAL.—Approval of an application for a project under subsection (a)(1) qualifies the project for execution of a conditional term sheet establishing a conditional commitment of credit assistance.

(g) FEDERAL REQUIREMENTS.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for public transportation projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

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

(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(h) DEVELOPMENT PHASE ACTIVITIES.—Any credit instrument secured under this chapter may be used to finance 100 percent of the cost of development phase activities as described in section 601(a)(1)(A) if the total amount of the credit instrument does not exceed the maximum amount for such instrument prescribed in this chapter.

§ 603. Secured loans

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements*, including master credit agreements,* with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs of any project **[**selected**]** *approved* under section 602; or

(B) to refinance interim construction financing of eligible project costs of any project **[**selected**]** *approved* under section 602; or

(C) to refinance long-term project obligations or Federal credit instruments if such refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

(i) is **[**selected**]** *approved* under section 602; or

* * * * * * *

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section **[**602(b)(2)(B)**]** *602(c)*, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account such letter.

* * * * * * *

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as *are consistent with this chapter and its purpose and that* the Secretary determines appropriate.

[(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of 33 percent of the reasonably anticipated eligible project costs or, if the secured loan does not

receive an investment grade rating, the amount of the senior project obligations.]

(2) MAXIMUM AMOUNTS.—The amount of the secured loan may not exceed 49 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall—

(i) be payable, in whole or in part, from tolls, user fees, *payments owing to the obligor under a public-private partnership,* or other dedicated revenue sources that also secure the senior project obligations; and

* * * * * * *

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations *entered into after the date on which the agreement to provide the secured loan is entered into under this section (except that such obligations do not include project obligations issued to refund prior project obligations or project obligations not contemplated by the parties at the time)* in the event of bankruptcy, insolvency, or liquidation of the obligor.

* * * * * * *

§ 604. Lines of credit

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project [selected] *approved* under section 602.

* * * * * * *

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section [602(b)(2)(B)] *602(c)*, shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account such letter.

* * * * * * *

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as *are consistent with this chapter and its purpose and that* the Secretary determines appropriate.

[(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.]

(2) MAXIMUM AMOUNTS.—The total amount of the line of credit may not exceed 49 percent of the reasonably anticipated eligible project costs.

* * * * * * *

(5) SECURITY.—The line of credit—

(A) shall—

(i) be payable, in whole or in part, from tolls, user fees, *payments owing to the obligor under a public-private partnership,* or other dedicated revenue sources that also secure the senior project obligations; and

* * * * * * *

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations *entered into after the date on which the agreement to provide the direct loan is entered into under this section (except that such obligations do not include project obligations issued to refund prior project obligations or project obligations not contemplated by the parties at the time)* in the event of bankruptcy, insolvency, or liquidation of the obligor.

* * * * * * *

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 603 of an amount that, combined with the amount of the line of credit, exceeds **[**33 percent**]** *49 percent* of eligible project costs.

* * * * * * *

§ 605. Program administration

(a) * * *

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(e) EXPEDITED PROCESSING.—The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance under this chapter.

* * * * * * *

§ 608. Funding

(a) FUNDING.—

[(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter $122,000,000 for each of fiscal years 2005 through 2009.**]**

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) to carry out this chapter $1,000,000,000 for each of fiscal years 2013 through 2016.

* * * * * * *

(3) ADMINISTRATIVE COSTS.—From funds made available to carry out this chapter, the Secretary may use, for the administration of this chapter, not more than **[**$2,200,000 for each of

fiscal years 2005 through 2009] *$3,250,000 for each of fiscal years 2013 through 2016.*

(4) PROJECTS UNDER A MASTER CREDIT AGREEMENT.—The Secretary may commit or conditionally commit to projects covered by master credit agreements not more than 15 percent of the amount of budget authority for each fiscal year under paragraph (1). This limitation does not apply to a project under a master credit agreement that has received final credit approval.

* * * * * * *

(c) EXHAUSTION OF AVAILABILITY.—

(1) NOTICE OF EXHAUSTION.—Whenever the Secretary fully commits budget authority available in a fiscal year under subparagraph (a)(1), the Secretary shall—

(A) publish notice of that fact in the Federal Register; and

(B) deliver written notice of that fact to the applicants under all approved and pending applications.

(2) ELECTION TO USE OTHER SOURCES FOR SUBSIDY AMOUNT.—An applicant may elect in its application or at any time after receipt of such notice to pay the subsidy amount from available sources other than the budget authority available in a fiscal year under subparagraph (a)(1), including from Federal assistance available to the applicant under this title or chapter 53 of title 49.

(d) USE OF UNALLOCATED FUNDS.—

(1) DISTRIBUTION AMONG STATES.—On September 1 of each fiscal year, the Secretary shall distribute any remaining budget authority made available in subsection (a)(1) among the States in the ratio that—

(A) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to each State for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year; bears to

(B) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to all States for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year.

(2) ELIGIBLE PURPOSES.—Such budget authority shall be available for any purpose eligible for funding under section 133.

* * * * * * *

§ 610. State infrastructure bank program

(a) * * *

* * * * * * *

(d) FUNDING.—

(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure

bank to deposit into the highway account of the bank not to exceed—

(A) [10 percent] *15 percent* of the funds apportioned to the State for each of [fiscal years 2005 through 2009] *fiscal years 2013 through 2016* under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; [and]

(B) [10 percent] *15 percent* of the funds allocated to the State for each of such fiscal years under section 105[.]*; and*

(C) 100 percent of the funds apportioned to the State for each of fiscal years 2013 through 2016 under section 611.

(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed [10 percent] *15 percent* of the funds made available to the State or other recipient in each of [fiscal years 2005 through 2009] *fiscal years 2013 through 2016* for capital projects under each of such sections.

(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of [fiscal years 2005 through 2009] *fiscal years 2013 through 2016* for capital projects under such subtitle.

* * * * * * *

(k) PROGRAM ADMINISTRATION.—For each of [fiscal years 2005 through 2009] *fiscal years 2013 through 2016*, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

§ 611. State infrastructure bank capitalization

(a) APPORTIONMENT OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion amounts made available to carry out this section for a fiscal year among the States in the ratio that—

(1) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to each State for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year; bears to

(2) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to all States for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year.

(b) ELIGIBLE USES OF FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), funds apportioned to a State under subsection (a) shall be used by the

State to make capitalization grants to the highway account of the State's infrastructure bank established under section 610.

(2) FISCAL YEARS 2013 AND 2014.—Funds apportioned to a State under subsection (a) for fiscal years 2013 and 2014 may be used by the State for eligible projects on the National Highway System, as described in section 119(d).

(c) REAPPORTIONMENT OF FUNDS.—For fiscal year 2015 and each fiscal year thereafter, if by August 1 of the fiscal year a State does not obligate the funds apportioned to the State for the fiscal year under subsection (a) for providing capitalization grants described in subsection (b), the Secretary shall reapportion the remaining funds among those States that—

(1) did obligate before such date all of the funds apportioned to the State for the fiscal year under subsection (a); and

(2) certify to the Secretary that the State will use the additional funds to make capitalization grants described in subsection (b) before the end of the fiscal year.

(d) LIMITATION.—Any reapportionment of funds pursuant to subsection (d) shall not require a recalculation of percentages under section 105.

(e) APPLICABILITY OF FEDERAL LAW.—The requirements referred to in section 610(h) shall apply to any funds apportioned under this section.

(f) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account) to carry out this section $750,000,000 for each of fiscal years 2013 through 2016.

(2) CONTRACT AUTHORITY.—Funds made available under paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

SAFETEA-LU

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) [23 U.S.C. 101 note] SHORT TITLE.—This Act may be cited as the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" or "SAFETEA–LU".

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

Sec. 1. Short title; table of contents.

* * * * * * *

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorization of Programs

* * * * * * *

[Sec. 1117. Transportation, community, and system preservation program.]

* * * * * * *

Subtitle C—Mobility and Efficiency

[Sec. 1301. Projects of national and regional significance.
[Sec. 1302. National corridor infrastructure improvement program.]

* * * * * * *

[Sec. 1305. Truck parking facilities.
[Sec. 1306. Freight intermodal distribution pilot grant program.
[Sec. 1307. Deployment of magnetic levitation transportation projects.

[Sec. 1308. Delta region transportation development program.]
* * * * * * *

Subtitle D—Highway Safety

* * * * * * *
[Sec. 1404. Safe routes to school program.]
* * * * * * *
[Sec. 1410. National Work Zone Safety Information Clearinghouse.]

Subtitle E—Construction and Contract Efficiency

* * * * * * *
[Sec. 1502. Highways for LIFE pilot program.]
* * * * * * *

Subtitle H—Environment

* * * * * * *
[Sec. 1803. America's Byways Resource Center.
[Sec. 1804. National historic covered bridge preservation.]
* * * * * * *
[Sec. 1807. Nonmotorized transportation pilot program.]
* * * * * * *

Subtitle I—Miscellaneous

* * * * * * *
[Sec. 1906. Grant program to prohibit racial profiling.
[Sec. 1907. Pavement marking systems demonstration projects.]
* * * * * * *
[Sec. 1958. Limitation on project approval.]
* * * * * * *

TITLE II—HIGHWAY SAFETY

* * * * * * *
[Sec. 2009. High visibility enforcement program.
[Sec. 2010. Motorcyclist safety.
[Sec. 2011. Child safety and child booster seat incentive grants.]
* * * * * * *
[Sec. 2013. Drug-impaired driving enforcement.
[Sec. 2014. First responder vehicle safety program.]
* * * * * * *
[Sec. 2016. Rural State emergency medical services optimization pilot program.
[Sec. 2017. Older driver safety; law enforcement training.]
* * * * * * *

TITLE III—PUBLIC TRANSPORTATION

* * * * * * *
[Sec. 3045. National fuel cell bus technology development program.
[Sec. 3046. Allocations for national research and technology programs.]
* * * * * * *

TITLE IV—MOTOR CARRIER SAFETY

Subtitle A—Commercial Motor Vehicle Safety

* * * * * * *
[Sec. 4127. Outreach and education.
[Sec. 4128. Safety data improvement program.]
* * * * * * *
[Sec. 4134. Grant program for commercial motor vehicle operators.]
* * * * * * *

TITLE V—RESEARCH

* * * * * * *

Subtitle C—Intelligent Transportation System Research

* * * * * * *

[Sec. 5303. Goals and purposes.
[Sec. 5304. Infrastructure development.
[Sec. 5305. General authorities and requirements.
[Sec. 5306. Research and development.
[Sec. 5307. National architecture and standards.
[Sec. 5308. Road weather research and development program.
[Sec. 5309. Centers for surface transportation excellence.
[Sec. 5310. Definitions.]

* * * * * * *

Subtitle E—Other Programs

[Sec. 5501. Transportation safety information management system project.]

* * * * * * *

[Sec. 5506. Commercial remote sensing products and spatial information technologies.
[Sec. 5507. Rural interstate corridor communications study.]

* * * * * * *

[Sec. 5511. Motorcycle crash causation study grants.]

* * * * * * *

[Sec. 5513. Research grants.]

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TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorization of Programs

* * * * * * *

[SEC. 1117. TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.

[(a) ESTABLISHMENT.—In cooperation with appropriate State, tribal, regional, and local governments, the Secretary shall establish a comprehensive program to address the relationships among transportation, community, and system preservation plans and practices and identify private sector-based initiatives to improve such relationships.

[(b) PURPOSE.—Through the program under this section, the Secretary shall facilitate the planning, development, and implementation of strategies to integrate transportation, community, and system preservation plans and practices that address one or more of the following:

[(1) Improve the efficiency of the transportation system of the United States.

[(2) Reduce the impacts of transportation on the environment.

[(3) Reduce the need for costly future investments in public infrastructure.

[(4) Provide efficient access to jobs, services, and centers of trade.

[(5) Examine community development patterns and identify strategies to encourage private sector development that achieves the purposes identified in paragraphs (1) through (4).

[(c) GENERAL AUTHORITY.—The Secretary shall allocate funds made available to carry out this section to States, metropolitan planning organizations, local governments, and tribal governments

to carry out eligible projects to integrate transportation, community, and system preservation plans and practices.

[(d) ELIGIBILITY.—A project described in subsection (c) is an eligible project under this section if the project—

[(1) is eligible for assistance under title 23 or chapter 53 of title 49, United States Code; or

[(2) is to conduct any other activity relating to transportation, community, and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement one or more of the following:

[(A) Transit-oriented development plans.

[(B) Traffic calming measures.

[(C) Other coordinated transportation, community, and system preservation practices.

[(e) CRITERIA.—In allocating funds made available to carry out this section, the Secretary shall give priority consideration to applicants that—

[(1) have instituted preservation or development plans and programs that—

[(A) are coordinated with State and local preservation or development plans, including transit-oriented development plans;

[(B) promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

[(C) promote innovative private sector strategies;

[(2) have instituted other policies to integrate transportation, community, and system preservation practices, such as—

[(A) spending policies that direct funds to high-growth areas;

[(B) urban growth boundaries to guide metropolitan expansion;

[(C) "green corridors" programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

[(D) other similar programs or policies as determined by the Secretary;

[(3) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

[(4) demonstrate a commitment to public and private involvement, including the involvement of nontraditional partners in the project team; and

[(5) examine ways to encourage private sector investments that address the purposes of this section.

[(f) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this section, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

[(g) FUNDING.—

[(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year

2005 and $61,250,000 for each of fiscal years 2006 through 2009.

[(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable, and the Federal share for projects and activities carried out with such funds shall be determined in accordance with section 120(b) of title 23, United States Code.]

* * * * * * *

Subtitle C—Mobility and Efficiency

[SEC. 1301. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.

[(a) FINDINGS.—Congress finds the following:

[(1) Under current law, surface transportation programs rely primarily on formula capital apportionments to States.

[(2) Despite the significant increase for surface transportation program funding in the Transportation Equity Act of the 21st Century, current levels of investment are insufficient to fund critical high-cost transportation infrastructure facilities that address critical national economic and transportation needs.

[(3) Critical high-cost transportation infrastructure facilities often include multiple levels of government, agencies, modes of transportation, and transportation goals and planning processes that are not easily addressed or funded within existing surface transportation program categories.

[(4) Projects of national and regional significance have national and regional benefits, including improving economic productivity by facilitating international trade, relieving congestion, and improving transportation safety by facilitating passenger and freight movement.

[(5) The benefits of projects described in paragraph (4) accrue to local areas, States, and the Nation as a result of the effect such projects have on the national transportation system.

[(6) A program dedicated to constructing projects of national and regional significance is necessary to improve the safe, secure, and efficient movement of people and goods throughout the United States and improve the health and welfare of the national economy.

[(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide grants to States for projects of national and regional significance.

[(c) DEFINITIONS.—In this section, the following definitions apply:

[(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means the costs of—

[(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

[(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the

project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

[(2) ELIGIBLE PROJECT.—The term "eligible project" means any surface transportation project eligible for Federal assistance under title 23, United States Code, including freight railroad projects and activities eligible under such title.

[(3) STATE.—The term "State" has the meaning such term has in section 101(a) of title 23, United States Code.

[(d) ELIGIBILITY.—To be eligible for assistance under this section, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

[(1) $500,000,000; or

[(2) 75 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

[(e) APPLICATIONS.—Each State seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

[(f) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

[(1) IN GENERAL.—The Secretary shall—

[(A) establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (d);

[(B) conduct a national solicitation for applications; and

[(C) award grants on a competitive basis.

[(2) CRITERIA FOR GRANTS.—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—

[(A) is based on the results of preliminary engineering;

[(B) is justified based on the ability of the project—

[(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;

[(ii) to reduce congestion, including impacts in the State, region, and Nation;

[(iii) to improve transportation safety, including reducing transportation accidents, injuries, and fatalities;

[(iv) to otherwise enhance the national transportation system; and

[(v) to garner support for non-Federal financial commitments and provide evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility; and

[(C) 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.

[(3) SELECTION CONSIDERATIONS.—In selecting a project under this section, 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) uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project; and

[(C) helps maintain or protect the environment.

[(4) PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of preliminary engineering for the project.

[(5) NON-FEDERAL FINANCIAL COMMITMENT.—

[(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

[(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and

[(ii) each proposed non-Federal source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

[(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of non-Federal financing under subparagraph (A), the Secretary shall consider—

[(i) existing financial commitments;

[(ii) the degree to which financing sources are dedicated to the purposes proposed;

[(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and

[(iv) the extent to which the project has a non-Federal financial commitment that exceeds the required non-Federal share of the cost of the project.

[(6) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of preliminary engineering, project justification, and the degree of non-Federal financial commitment, as required under this subsection.

[(7) PROJECT EVALUATION AND RATING.—

[(A) IN GENERAL.—A proposed project may advance from preliminary engineering to final design and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements.

[(B) EVALUATION AND RATING.—In making such findings, the Secretary shall evaluate and rate the project as "highly recommended", "recommended", or "not recommended" based on the results of preliminary engineering, the project justification criteria, and the degree of non-Federal financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (6).

[(g) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—

[(1) LETTER OF INTENT.—

[(A) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

[(B) NOTIFICATION.—At least 60 days before issuing a letter under subparagraph (A) or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

[(C) NOT AN OBLIGATION.—The issuance of a letter is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

[(D) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment may be made only when contract authority is allocated to a project.

[(2) FULL FUNDING GRANT AGREEMENT.—

[(A) IN GENERAL.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under subsection (f)(7).

[(B) TERMS.—If the Secretary makes a full funding grant agreement with an applicant, the agreement shall—

[(i) establish the terms of participation by the United States Government in a project under this section;

[(ii) establish the maximum amount of Government financial assistance for the project;

[(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

[(iv) make timely and efficient management of the project easier according to the laws of the United States.

[(C) AGREEMENT.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except

that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

[(3) AMOUNTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent and full funding grant agreements may be not more than the greater of the amount authorized to carry out this section or an amount equivalent to the last 2 fiscal years of funding authorized to carry out this section less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements may be not more than a limitation specified in law.

[(h) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant for a project under this section shall be subject to all of the requirements of title 23, United States Code.

[(2) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

[(i) GOVERNMENT'S SHARE OF PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the cost of a project receiving assistance under this section. A grant for the project is for 80 percent of the project cost, unless the grant recipient requests a lower grant percentage. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

[(j) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (i) the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

[(k) REPORTS.—

[(1) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants under this section.

[(2) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph shall include evaluations and ratings, as required under subsection (f). The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated

funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

[(l) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be as provided in this section.

[(m) DESIGNATED PROJECTS.—Notwithstanding any other provision of this section, the Secretary shall allocate for each of fiscal years 2005, 2006, 2007, 2008, and 2009, from funds made available to carry out this section, 10 percent, 20 percent, 25 percent, 25 percent, and 20 percent respectively, of the following amounts for grants to carry out the following projects under this section:

[No.	State	Project Description	Amount
1.	CA	Bakersfield Beltway System	$140,000,000
2.	VA, WV, OH	Heartland Corridor Project including multiple intermodal facility improvements and improvements to facilitate the movement of intermodal freight from VA to OH	$90,000,000
3.	CA	Roadway improvements in and around the former Norton Air Force Base as part of the Inland Empire Goods Movement Gateway project	$55,000,000
4.	MI	$7,400,000 for planning, design, and construction of a new American border plaza at the Blue Water Bridge in or near Port Huron; $12,600,000 for integrated highway realignment and grade separations at Port Huron to eliminate road blockages from NAFTA rail traffic	$20,000,000
5.	IL	Construction of O'Hare Bypass/Elgin O'Hare Extension	$140,000,000
6.	WI	Reconstruction of the Marquette Interchange, Milwaukee WI	$30,000,000
7.	IL	CREATE	$100,000,000
8.	OR	I–5 Bridge repair, replacement and associated improvements in the I–5 corridor	$160,000,000
9.	CA	Alameda Corridor East	$125,000,000
10.	IL	Mississippi River Bridge and related roads	$150,000,000
11.	CA	Transbay Terminal	$27,000,000
12.	NY	Cross Harbor Freight Movement Project, New York	$100,000,000
13.	WA	Alaska Way Viaduct and Seawall Replacement	$100,000,000
14.	CA	Gerald Desmond/I–710 Gateway Project	$100,000,000
15.	CO	Denver's Union Station	$50,000,000
16.	MN	Union Depot Multimodal Transit Facility	$50,000,000
17.	CA	Sacramento Intermodal Station	$3,000,000
18.	NJ	Liberty Corridor	$100,000,000
19.	NM	For purposes of construction and other related transportation improvements associated with the rail yard relocation in the vicinity of Santa Teresa	$14,000,000

[No.	State	Project Description	Amount
20.	PA	Route 23/US 422 Interchange Modernization and Route 363/US 422 Interchange Improvement Project and U.S. 422 Widening, Montgomery County, PA	$20,000,000
21.	PA	Route 28 Widening and improvements, Allegheny County, PA	$15,000,000
22.	PA	Redesign and reconstruction of interchanges 298 and 299 of I–80 and accompanying improvements to any other public roads in the vicinity, Monroe County	$15,000,000
23.	SC	I–73, Construction of I–73 from Myrtle Beach, SC to I–95, ending at the North Carolina State line	$40,000,000
24.	VA	Rail Relocation to route 164/I–664 rail corridor, Portsmouth	$15,000,000
25.	WA	Replacement of the Alaskan Way Viaduct and Seawall in Seattle	$120,000,000

[SEC. 1302. NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.

[(a) IN GENERAL.—The Secretary shall establish and implement a program to make allocations to States for highway construction projects in corridors of national significance to promote economic growth and international or interregional trade pursuant to the selection factors provided in this section. A State must submit an application to the Secretary in order to receive an allocation under this section.

[(b) SELECTION PROCESS.—

[(1) PRIORITY.—In the selection process under this section, the Secretary shall give priority to projects in corridors that are a part of, or will be designated as part of, the Dwight D. Eisenhower National System of Interstate and Defense Highways after completion of the work described in the application received by the Secretary and to any project that will be completed within 5 years of the date of the allocation of funds for the project.

[(2) SELECTION FACTORS.—In making allocations under this section, the Secretary shall consider the following factors:

[(A) The extent to which the corridor provides a link between two existing segments of the Interstate System.

[(B) The extent to which the project will facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

[(C) The extent to which commercial vehicle traffic in the corridor—

[(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (16 U.S.C. 4401 et seq.); and

[(ii) is projected to increase in the future.

[(D) The extent to which international truck-borne commodities move through the corridor.

[(E) The extent to which the project will make improvements to an existing segment of the Interstate System that will result in a decrease in congestion.

[(F) The reduction in commercial and other travel time through a major freight corridor expected as a result of the project.

[(G) The value of the cargo carried by commercial vehicle traffic in the corridor and the economic costs arising from congestion in the corridor.

[(H) The extent of leveraging of Federal funds provided to carry out this section, including—

[(i) use of innovative financing;

[(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

[(iii) combination with other sources of Federal, State, local, or private funding.

[(c) APPLICABILITY OF TITLE 23.—Funds made available by section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

[(d) STATE DEFINED.—In this section, the term "State" has the meaning such term has in section 101(a) of title 23, United States Code.

[(e) DESIGNATED PROJECTS.—The Secretary shall allocate for each of fiscal years 2005, 2006, 2007, 2008, and 2009, from funds made available to carry out this section, 10 percent, 20 percent, 25 percent, 25 percent, and 20 percent respectively, of the following amounts for grants to carry out the following projects under this section:

[No.	State	Project Description	Amount
1.	TX, LA, AR, MS, TN, KY, IN	Planning, Design, and Construction of I–69 in TX, LA, AR, MS, TN, KY, and IN	$50,000,000
2.	LA	Improvements to Louisiana Highway 1 between the Caminada Bridge and the intersection of LA Highway 1 and U.S. 90	$20,000,000
3.	MD	Planning, design, and construction of the Inter County Connector in Montgomery and Prince Georges County in Maryland	$10,000,000
4.	CA	Centennial Corridor Loop in Bakersfield	$330,000,000
5.	VA	Construction of dedicated truck lanes on additional capacity in I–81 in VA	$100,000,000
6.	CA	Design, Planning and Construction of State Route 178 in Bakersfield	$100,000,000
7.	CA	Widening of Rosedale Highway between SR 43 and SR 99 in Bakersfield and widening of SR 178 between SR 99 and D street in Bakersfield	$60,000,000

[No.	State	Project Description	Amount
8.	LA	Construction of the 36 mile segment of I–49 in LA between the Arkansas State line and I–220 in Shreveport	$150,000,000
9.	AR	Construction of an extension of I–530 from Pine Bluff, Arkansas to Wilmar, Arkansas to interstate specifications	$40,000,000
10.	IL	Construction of the U.S. I–80 to I–88 North-South Connector in Illinois	$152,000,000
11.	WI	Construction and reconstruction of the U.S. Highway 41 corridor between Milwaukee and Green Bay, Wisconsin	$30,000,000
12.	IL	Construction of Route 34 Interchange and improvements in Illinois	$55,000,000
13.	CA	Increase capacity on I–80 between Sacrament/Placer County Line and SR 65	$50,000,000
14.	AK	Planning, design, and construction of Knik Arm Bridge	$30,000,000
15.	IA, IL	Planning, design, right-of-way acquisition and construction of the Interstate Route 74 bridge from Bettendorf, Iowa, to Moline, Illinois	$15,000,000
16.	AR	Planning, design, and construction of the I–49/Bella Vista Bypass in Arkansas	$20,000,000
17.	SC	Planning, design, and construction of the I–73 corridor of national significance in South Carolina	$10,000,000
18.	CA	I–405 HOV lane	$100,000,000
19.	AR	I–69 Corridor, including the Great River Bridge	$75,000,000
20.	MN	Falls-to-Falls Corridor	$50,000,000
21.	DC	Frederick Douglass Memorial Bridge	$75,000,000
22.	CT	Pearl Harbor Memorial Bridge	$35,000,000
23.	IN	Improvements to State Road 312, Hammond	$10,000,000
24.	CA	State Route 4 East Upgrade	$20,000,000
25.	LA	LA 1 Replacement	$5,000,000
26.	AZ	State Route 85 Upgrade	$3,000,000
27.	WV	I–73/I–74 Corridor	$50,000,000
28.	LA	Construction of I–49 North from Shreveport, Louisiana to Arkansas State line (I–220 to AR Line)	$27,500,000
29.	LA	Transportation improvements to I–49 South	$27,500,000
30.	OK	Ports to Plain Corridor in Oklahoma	$35,000,000
31.	TN	For design, ROW and construction of Interstate 69	$100,000,000
32.	CO	U.S. 287, Ports-to-Plains Corridor	$3,000,000
33.	OK	State of Oklahoma I–44 from Riverside to Yale Avenue in Tulsa	$110,000,000]

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[SEC. 1305. TRUCK PARKING FACILITIES.

[(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System.

[(b) ALLOCATION OF FUNDS.—

[(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section among States, metropolitan planning organizations, and local governments.

[(2) APPLICATIONS.—To be eligible for an allocation under this section, a State (as defined in section 101(a) of title 23, United States Code), metropolitan planning organization, or local government shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

[(3) ELIGIBLE PROJECTS.—Funds allocated under this subsection shall be used by the recipient for projects described in an application approved by the Secretary. Such projects shall serve the National Highway System and may include the following:

[(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

[(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

[(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

[(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

[(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

[(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

[(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

[(4) PRIORITY.—In allocating funds made available to carry out this section, the Secretary shall give priority to applicants that—

[(A) demonstrate a severe shortage of commercial motor vehicle parking capacity in the corridor to be addressed;

[(B) have consulted with affected State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations; and

[(C) demonstrate that their proposed projects are likely to have positive effects on highway safety, traffic congestion, or air quality.

[(c) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot program.

[(d) FUNDING.—

[(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $6,250,000 for each of fiscal years 2006 through 2009.

[(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner

as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with sections 120(b) and 120(c) of such title.

[(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

[SEC. 1306. FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM.

[(a) IN GENERAL.—The Secretary shall establish and implement a freight intermodal distribution pilot grant program.

[(b) PURPOSES.—The purposes of the program established under subsection (a) shall be for the Secretary to make grants to States—

[(1) to facilitate and support intermodal freight transportation initiatives at the State and local levels to relieve congestion and improve safety; and

[(2) to provide capital funding to address infrastructure and freight distribution needs at inland ports and intermodal freight facilities.

[(c) ELIGIBLE PROJECTS.—Projects for which grants may be made under this section shall help relieve congestion, improve transportation safety, facilitate international trade, and encourage public-private partnership and may include projects for the development and construction of intermodal freight distribution and transfer facilities at inland ports.

[(d) SELECTION PROCESS.—

[(1) APPLICATIONS.—A State (as defined in section 101(a) of title 23, United States Code) shall submit for approval by the Secretary an application for a grant under this section containing such information as the Secretary may require to receive such a grant.

[(2) PRIORITY.—In selecting projects for grants, the Secretary shall give priority to projects that will—

[(A) reduce congestion into and out of international ports located in the United States;

[(B) demonstrate ways to increase the likelihood that freight container movements involve freight containers carrying goods; and

[(C) establish or expand intermodal facilities that encourage the development of inland freight distribution centers.

[(3) DESIGNATED PROJECTS.—Subject to the provisions of this section, the Secretary shall allocate for each of fiscal years 2005 through 2009, from funds made available to carry out this section, 20 percent of the following amounts for grants to carry out the following projects under this section:

[(A) Short-haul intermodal projects, Oregon, $5,000,000.

[(B) The Georgia Port Authority, $5,000,000.

[(C) The ports of Los Angeles and Long Beach, California, $5,000,000.

[(D) Fairbanks, Alaska, $5,000,000.

[(E) Charlotte Douglas International Airport Freight Intermodal Facility, North Carolina, $5,000,000.

[(F) South Piedmont Freight Intermodal Center, North Carolina, $5,000,000.

[(e) USE OF GRANT FUNDS.—Funds made available to a recipient of a grant under this section shall be used by the recipient for the project described in the application of the recipient approved by the Secretary.

[(f) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this section.

[(g) FUNDING.—

[(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $6,000,000 for each of fiscal years 2005 through 2009.

[(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

[(h) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects for which grants are made under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

[SEC. 1307. DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.

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

[(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs"—

[(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

[(B) includes the costs of preconstruction planning activities.

[(2) FULL PROJECT COSTS.—The term "full project costs" means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

[(3) MAGLEV.—The term "MAGLEV" means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

[(4) STATE.—The term "State" has the meaning such term has under section 101(a) of title 23, United States Code.

[(b) IN GENERAL.—

[(1) ASSISTANCE FOR ELIGIBLE PROJECTS.—The Secretary shall make available financial assistance to pay the Federal

share of full project costs of eligible projects authorized by this section.

[(2) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects authorized by this section.

[(3) APPLICABILITY OF OTHER LAWS.—Financial assistance made available under this section, and projects assisted with such assistance, shall be subject to section 5333(a) of title 49, United States Code.

[(c) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

[(1) involve a segment or segments of a high-speed ground transportation corridor;

[(2) result in an operating transportation facility that provides a revenue producing service; and

[(3) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by one or more States.

[(d) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, the Secretary shall allocate—

[(1) 50 percent to the Nevada department of transportation who shall cooperate with the California-Nevada Super Speed Train Commission for the MAGLEV project between Las Vegas and Primm, Nevada, as a segment of the high-speed MAGLEV system between Las Vegas, Nevada, and Anaheim, California; and

[(2) 50 percent for existing MAGLEV projects located east of the Mississippi River using such criteria as the Secretary deems appropriate.

[(e) CONTRACT AUTHORITY.—Funds authorized under section 1101(a)(18) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project to be carried out with such funds shall be 80 percent.

[SEC. 1308. DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.

[(a) IN GENERAL.—The Secretary shall carry out a program in the 8 States comprising the Delta Region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee) to—

[(1) support and encourage multistate transportation planning and corridor development;

[(2) provide for transportation project development;

[(3) facilitate transportation decisionmaking; and

[(4) support transportation construction.

[(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization in a Delta Region State may receive and administer funds provided under the program.

[(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway planning, development, and construction projects.

[(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing,

cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

[(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

[(1) whether the project is located—

[(A) in an area under the authority of the Delta Regional Authority; and

[(B) on a Federal-aid highway;

[(2) endorsement of the project by the State department of transportation; and

[(3) evidence of the ability of the recipient of funds provided under the program to complete the project.

[(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

[(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

[(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

[(A) increase the mobility of people and goods;

[(B) improve the safety of the transportation system with respect to catastrophic natural disasters or disasters caused by human activity; and

[(C) contribute to the economic vitality of the area in which the project is being carried out.

[(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this subsection may be applied to the non-Federal share of the project required by section 120 of title 23, United States Code.

[(h) FUNDING.—

[(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for each of fiscal years 2006 through 2009.

[(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended.]

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Subtitle D—Highway Safety

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[SEC. 1404. SAFE ROUTES TO SCHOOL PROGRAM.

[(a) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and middle schools.

[(b) PURPOSES.—The purposes of the program shall be—

[(1) to enable and encourage children, including those with disabilities, to walk and bicycle to school;

[(2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and

[(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

[(c) APPORTIONMENT OF FUNDS.—

[(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), amounts made available to carry out this section for a fiscal year shall be apportioned among the States in the ratio that—

[(A) the total student enrollment in primary and middle schools in each State; bears to

[(B) the total student enrollment in primary and middle schools in all States.

[(2) MINIMUM APPORTIONMENT.—No State shall receive an apportionment under this section for a fiscal year of less than $1,000,000.

[(3) SET-ASIDE FOR ADMINISTRATIVE EXPENSES.—Before apportioning under this subsection amounts made available to carry out this section for a fiscal year, the Secretary shall set aside not more than $3,000,000 of such amounts for the administrative expenses of the Secretary in carrying out this subsection.

[(4) DETERMINATION OF STUDENT ENROLLMENTS.—Determinations under this subsection concerning student enrollments shall be made by the Secretary.

[(d) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State's department of transportation.

[(e) ELIGIBLE RECIPIENTS.—Amounts apportioned to a State under this section shall be used by the State to provide financial assistance to State, local, tribal, and regional agencies, including nonprofit organizations, that demonstrate an ability to meet the requirements of this section.

[(f) ELIGIBLE PROJECTS AND ACTIVITIES.—

[(1) INFRASTRUCTURE-RELATED PROJECTS.—

[(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

[(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.

[(2) NONINFRASTRUCTURE-RELATED ACTIVITIES.—

[(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for noninfrastructure-related activities

to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.

[(B) ALLOCATION.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a State under this section for a fiscal year shall be used for noninfrastructure-related activities under this subparagraph.

[(3) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State receiving an apportionment under this section for a fiscal year shall use a sufficient amount of the apportionment to fund a full-time position of coordinator of the State's safe routes to school program.

[(g) CLEARINGHOUSE.—

[(1) IN GENERAL.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools to—

[(A) operate a national safe routes to school clearinghouse;

[(B) develop information and educational programs on safe routes to school; and

[(C) provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs.

[(2) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (c)(3).

[(h) TASK FORCE.—

[(1) IN GENERAL.—The Secretary shall establish a national safe routes to school task force composed of leaders in health, transportation, and education, including representatives of appropriate Federal agencies, to study and develop a strategy for advancing safe routes to school programs nationwide.

[(2) REPORT.—Not later than March 31, 2006, the Secretary shall submit to Congress a report containing the results of the study conducted, and a description of the strategy developed, under paragraph (1) and information regarding the use of funds for infrastructure-related and noninfrastructure-related activities under paragraphs (1) and (2) of subsection (f).

[(3) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (c)(3).

[(i) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project or activity under this section shall be 100 percent.

[(j) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated

as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

[(k) DEFINITIONS.—In this section, the following definitions apply:

[(1) IN THE VICINITY OF SCHOOLS.—The term "in the vicinity of schools" means, with respect to a school, the area within bicycling and walking distance of the school (approximately 2 miles).

[(2) PRIMARY AND MIDDLE SCHOOLS.—The term "primary and middle schools" means schools providing education from kindergarten through eighth grade.]

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SEC. 1409. WORK ZONE SAFETY GRANTS.

(a) * * *

* * * * * * *

(c) FUNDING.—

[(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for each of fiscal years 2006 through 2009.]

(1) IN GENERAL.—Funding for activities under this section may be made available as described in section 1716(a) of the American Energy and Infrastructure Jobs Act of 2012.

* * * * * * *

[SEC. 1410. NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE.

[(a) GRANTS.—The Secretary shall make grants for fiscal years 2006 through 2009 to a national nonprofit foundation for the operation of the National Work Zone Safety Information Clearinghouse, authorized by section 358(b)(2) of Public Law 104–59, created for the purpose of assembling and disseminating, by electronic and other means, information relating to improvement of roadway work zone safety.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,000,000 for each of fiscal years 2006 through 2009.

[(c) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.]

SEC. 1411. ROADWAY SAFETY.

(a) ROAD SAFETY.—

(1) * * *

[(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.]

(2) FUNDING.—Funding for activities under this subsection may be made available as described in section 1716(a) of the American Energy and Infrastructure Jobs Act of 2012.

* * * * * * *

[(b) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

[(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—

[(A) to operate a national bicycle and pedestrian clearinghouse;

[(B) to develop information and educational programs; and

[(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

[(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $300,000 for fiscal year 2005 and $500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.

[(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.]

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Subtitle E—Construction and Contract Efficiency

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[SEC. 1502. HIGHWAYS FOR LIFE PILOT PROGRAM.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—The Secretary shall establish and implement a pilot program to be known as the "Highways for LIFE Pilot Program".

[(2) PURPOSE.—The purpose of the pilot program shall be to advance longer-lasting highways using innovative technologies and practices to accomplish the fast construction of efficient and safe highways and bridges.

[(3) OBJECTIVES.—Under the pilot program, the Secretary shall provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

[(b) PROJECTS.—

[(1) APPLICATIONS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires. Each application shall contain a description of proposed projects to be carried by the State under the pilot program.

[(2) ELIGIBILITY.—A proposed project shall be eligible for assistance under the pilot program if the project—

[(A) constructs, reconstructs, or rehabilitates a route or connection on a Federal-aid highway eligible for assistance under chapter 1 of title 23, United States Code;

[(B) uses innovative technologies, manufacturing processes, financing, or contracting methods that improve safety, reduce congestion due to construction, and improve quality; and

[(C) meets additional criteria as determined by the Secretary.

[(3) PROJECT PROPOSAL.—A project proposal submitted under paragraph (1) shall contain—

[(A) an identification and description of the projects to be delivered;

[(B) a description of how the projects will result in improved safety, faster construction, reduced congestion due to construction, user satisfaction, and improved quality;

[(C) a description of the innovative technologies, manufacturing processes, financing, and contracting methods that will be used for the proposed projects; and

[(D) such other information as the Secretary may require.

[(4) SELECTION CRITERIA.—In selecting projects for approval under this section, the Secretary shall ensure that the projects provide an evaluation of a broad range of technologies in a wide variety of project types and shall give priority to the projects that—

[(A) address achieving the Highways for LIFE performance standards for quality, safety, and speed of construction;

[(B) deliver and deploy innovative technologies, manufacturing processes, financing, contracting practices, and performance measures that will demonstrate substantial improvements in safety, congestion, quality, and cost-effectiveness;

[(C) include innovation that will lead to change in the administration of the State's transportation program to more quickly construct long-lasting, high-quality, cost-effective projects that improve safety and reduce congestion;

[(D) are or will be ready for construction within 1 year of approval of the project proposal; and

[(E) meet such other criteria as the Secretary determines appropriate.

[(5) FINANCIAL ASSISTANCE.—

[(A) FUNDS FOR HIGHWAYS FOR LIFE PROJECTS.—Out of amounts made available to carry out this section for a fiscal year, the Secretary may allocate to a State up to 20 percent, but not more than $5,000,000, of the total cost of a project approved under this section. Notwithstanding any other provision of law, funds allocated to a State under this subparagraph may be applied to the non-Federal share of the cost of construction of a project under title 23, United States Code.

[(B) USE OF APPORTIONED FUNDS.—A State may obligate not more than 10 percent of the amount apportioned to the State under one or more of paragraphs (1), (2), (3), and (4) of section 104(b) of title 23, United States Code, for a fiscal year for projects approved under this section.

[(C) INCREASED FEDERAL SHARE.—Notwithstanding sections 120 and 129 of title 23, United States Code, the Federal share payable on account of any project constructed with Federal funds allocated under this section, or apportioned under section 104(b) of such title, to a State under such title and approved under this section may amount to 100 percent of the cost of construction of such project.

[(D) LIMITATION ON STATUTORY CONSTRUCTION.—Except as provided in subparagraph (C), nothing in this subsection shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program and the location of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects approved under this subsection.

[(6) PROJECT SELECTIONS.—In the period of fiscal years 2005 through 2009, the Secretary, to the maximum extent possible, shall approve at least 1 project in each State for participation in the pilot program and for financial assistance under paragraph (5) if the State submits an application and the project meets the eligibility requirements and selection criteria under this subsection.

[(7) MAXIMUM NUMBER OF PROJECTS.—The maximum number of projects for which the Secretary may allocate funds under this subsection in a fiscal year is 15.

[(c) TECHNOLOGY PARTNERSHIPS.—

[(1) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements or other transactions to foster the development, improvement, and creation of innovative technologies and facilities to improve safety, enhance the speed of highway construction, and improve the quality and durability of highways.

[(2) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

[(d) TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION.—

[(1) IN GENERAL.—The Secretary shall conduct a highways for life technology transfer program.

[(2) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that the information and technology used, developed, or deployed under this subsection is made available to the transportation community and the public.

[(e) STAKEHOLDER INPUT AND INVOLVEMENT.—The Secretary shall establish a process for stakeholder input and involvement in the development, implementation, and evaluation of the Highways for LIFE Pilot Program. The process may include participation by representatives of State departments of transportation and other interested persons.

[(f) PROJECT MONITORING AND EVALUATION.—The Secretary shall monitor and evaluate the effectiveness of any activity carried out under this section.

[(g) CONTRACT AUTHORITY.—Except as otherwise provided in this section, funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

[(h) STATE DEFINED.—In this section, the term "State" has the meaning such term has in section 101(a) of title 23, United States Code.]

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Subtitle F—Finance

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SEC. 1604. TOLLING.

(a) * * *

[(b) EXPRESS LANES DEMONSTRATION PROGRAM.—

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

[(A) ELIGIBLE TOLL FACILITY.—The term "eligible toll facility" includes—

[(i) a facility in existence on the date of enactment of this Act that collects tolls;

[(ii) a facility in existence on the date of enactment of this Act that serves high occupancy vehicles;

[(iii) a facility modified or constructed after the date of enactment of this Act to create additional tolled lane capacity (including a facility constructed by a private entity or using private funds); and

[(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

[(B) NONATTAINMENT AREA.—The term "nonattainment area" has the meaning given that term in section 171 of the Clean Air Act (42 U.S.C. 7501).

[(2) DEMONSTRATION PROGRAM.—Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall carry out 15 demonstration projects during the period of fiscal years 2005 through 2009 to permit States, public authorities, or a public or private entities designated by States, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

[(A) to manage high levels of congestion;

[(B) to reduce emissions in a nonattainment area or maintenance area; or

[(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing one or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

[(3) LIMITATION ON USE OF REVENUES.—

[(A) USE.—

[(i) IN GENERAL.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

[(I) debt service;

[(II) a reasonable return on investment of any private financing;

[(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

[(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under title 23 or 49, United States Code.

[(B) REQUIREMENTS.—

[(i) VARIABLE PRICE REQUIREMENT.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

[(ii) HOV VARIABLE PRICING REQUIREMENT.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

[(iii) HOV PASSENGER REQUIREMENTS.—Pursuant to section 166 of title 23, United States Code, a State may permit motor vehicles with fewer than two occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

[(C) AGREEMENT.—

[(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

[(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

[(iii) DEBT.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

[(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection fa-

cility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

[(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—

[(A) a description of the congestion or air quality problems sought to be addressed under the program;

[(B) a description of—

[(i) the goals sought to be achieved under the program; and

[(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

[(C) such other information as the Secretary may require.

[(5) AUTOMATION.—Fees collected from motorists using an express lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

[(6) INTEROPERABILITY.—

[(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

[(B) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

[(i) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

[(ii) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

[(iii) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

[(7) REPORTING.—

[(A) IN GENERAL.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

[(i) develop and publish performance goals for each express lane project;

[(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

[(I) effects on travel, traffic, and air quality;

[(II) distribution of benefits and burdens;

[(III) use of alternative transportation modes; and

[(IV) use of revenues to meet transportation or impact mitigation needs.

[(B) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

[(i) not later than 1 year after the date of enactment of this Act, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

[(ii) not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for express lane programs.

[(c) INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System construction toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or an interstate compact of States to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of constructing Interstate highways.

[(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this section on three facilities on the Interstate System.

[(3) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

[(A) An identification of the facility on the Interstate System proposed to be a toll facility.

[(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under section 134 or 135 for the area has been consulted concerning the placement and amount of tolls on the facility.

[(C) An analysis demonstrating that financing the construction of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.

[(D) A facility management plan that includes—

[(i) a plan for implementing the imposition of tolls on the facility;

[(ii) a schedule and finance plan for the construction of the facility using toll revenues;

[(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

[(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

[(v) such other information as the Secretary may require.

[(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under paragraph (3) only if the Secretary determines that—

[(A) the State's analysis under paragraph (3)(C) is reasonable;

[(B) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

[(C) the State plan for construction of the facility using toll revenues is reasonable;

[(D) the State will develop, manage, and maintain a system that will automatically collect the tolls; and

[(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

[(5) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—

[(A) excessive congestion;

[(B) pavement wear; and

[(C) an increased incidence of traffic accidents, injuries, or fatalities.

[(6) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

[(A) all toll revenues received from operation of the toll facility will be used only for—

[(i) debt service;

[(ii) reasonable return on investment of any private person financing the project; and

[(iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

[(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

[(7) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

[(8) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before

the last day of the 10-year period beginning on the date of enactment of this Act.

[(9) INTERSTATE SYSTEM DEFINED.—In this section, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.]

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Subtitle H—Environment

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[SEC. 1803. AMERICA'S BYWAYS RESOURCE CENTER.

[(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section to the America's Byways Resource Center established pursuant to section 1215(b)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 209).

[(b) TECHNICAL SUPPORT AND EDUCATION.—

[(1) USE OF FUNDS.—The Center shall use funds allocated to the Center under this section to continue to provide technical support and conduct educational activities for the national scenic byways program established under section 162 of title 23, United States Code.

[(2) ELIGIBLE ACTIVITIES.—Technical support and educational activities carried out under this subsection shall provide local officials and organizations associated with National Scenic Byways, All-American Roads, and America's Byways with proactive, technical, and on-site customized assistance, including training, communications (including a public awareness series), publications, conferences, on-site meetings, and other assistance considered appropriate to develop and sustain such byways and roads.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,500,000 for fiscal year 2005 and $3,000,000 for each of fiscal years 2006 through 2009.

[(d) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

[SEC. 1804. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

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

[(1) HISTORIC COVERED BRIDGE.—The term "historic covered bridge" means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

[(2) STATE.—The term "State" has the meaning such term has in section 101(a) of title 23, United States Code.

[(b) HISTORIC COVERED BRIDGE PRESERVATION.—The Secretary shall—

[(1) collect and disseminate information on historic covered bridges;

[(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

[(3) conduct research on the history of historic covered bridges; and

[(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

[(c) GRANTS.—

[(1) IN GENERAL.—The Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out one or more historic covered bridge projects described in paragraph (2).

[(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

[(A) to rehabilitate or repair a historic covered bridge; or

[(B) to preserve a historic covered bridge, including through—

[(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

[(ii) installation of a system to prevent vandalism and arson; or

[(iii) relocation of a bridge to a preservation site.

[(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

[(A) to the maximum extent practicable, the project—

[(i) is carried out in the most historically appropriate manner; and

[(ii) preserves the existing structure of the historic covered bridge; and

[(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $10,000,000 for each of fiscal years 2006 through 2009.

[(e) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be determined in accordance with section 120 of such title, and such funds shall remain available until expended and shall not be transferable.]

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[SEC. 1807. NONMOTORIZED TRANSPORTATION PILOT PROGRAM.

[(a) ESTABLISHMENT.—The Secretary shall establish and carry out a nonmotorized transportation pilot program to construct, in the following 4 communities selected by the Secretary, a network of nonmotorized transportation infrastructure facilities, including sidewalks, bicycle lanes, and pedestrian and bicycle trails, that con-

nect directly with transit stations, schools, residences, businesses, recreation areas, and other community activity centers:

[(1) Columbia, Missouri.

[(2) Marin County, California.

[(3) Minneapolis, Minnesota.

[(4) Sheboygan County, Wisconsin.

[(b) PURPOSE.—The purpose of the program shall be to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within selected communities.

[(c) GRANTS.—In carrying out the program, the Secretary may make a grant of $6,250,000 per fiscal year for each of the communities set forth in subsection (a) to State, local, and regional agencies that the Secretary determines are suitably equipped and organized to carry out the objectives and requirements of this section. An agency that receives a grant under this section may suballocate grant funds to a nonprofit organization to carry out the program under this section.

[(d) STATISTICAL INFORMATION.—In carrying out the program, the Secretary shall develop statistical information on changes in motor vehicle, nonmotorized transportation, and public transportation usage in communities participating in the program and assess how such changes decrease congestion and energy usage, increase the frequency of bicycling and walking, and promote better health and a cleaner environment.

[(e) REPORTS.—The Secretary shall submit to Congress an interim report not later than September 30, 2007, and a final report not later than September 30, 2010, on the results of the program.

[(f) FUNDING.—

[(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for each of fiscal years 2006 through 2009.

[(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project shall be 100 percent, and the funds shall remain available until expended and shall not be transferable.

[(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.]

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Subtitle I—Miscellaneous

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[SEC. 1906. GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.

[(a) GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to a State that—

[(1)(A) has enacted and is enforcing a law that prohibits the use of racial profiling in the enforcement of State laws regulating the use of Federal-aid highways; and

[(B) is maintaining and allows public inspection of statistical information for each motor vehicle stop made by a law enforcement officer on a Federal-aid highway in the State regarding the race and ethnicity of the driver and any passengers; or

[(2) provides assurances satisfactory to the Secretary that the State is undertaking activities to comply with the requirements of paragraph (1).

[(b) ELIGIBLE ACTIVITIES.—A grant received by a State under subsection (a) shall be used by the State—

[(1) in the case of a State eligible under subsection (a)(1), for costs of—

[(A) collecting and maintaining of data on traffic stops;

[(B) evaluating the results of the data; and

[(C) developing and implementing programs to reduce the occurrence of racial profiling, including programs to train law enforcement officers; and

[(2) in the case of a State eligible under subsection (a)(2), for costs of—

[(A) activities to comply with the requirements of subsection (a)(1); and

[(B) any eligible activity under paragraph (1).

[(c) RACIAL PROFILING.—

[(1) IN GENERAL.—To meet the requirement of subsection (a)(1), a State law shall prohibit, in the enforcement of State laws regulating the use of Federal-aid highways, a State or local law enforcement officer from using the race or ethnicity of the driver or passengers to any degree in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops on Federal-aid highways.

[(2) LIMITATION.—Nothing in this subsection shall alter the manner in which a State or local law enforcement officer considers race or ethnicity whenever there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.

[(d) LIMITATIONS.—

[(1) MAXIMUM AMOUNT OF GRANTS.—The total amount of grants made to a State under this section in a fiscal year may not exceed 5 percent of the amount made available to carry out this section in the fiscal year.

[(2) ELIGIBILITY.—A State may not receive a grant under subsection (a)(2) in more than 2 fiscal years.

[(e) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $7,500,000 for each of fiscal years 2005 through 2009.

[(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 80 percent, and

such funds shall remain available until expended and shall not be transferable.

[SEC. 1907. PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.

[(a) IN GENERAL.—The Secretary shall conduct a demonstration project in the State of Alaska, and a demonstration project in the State of Tennessee, to study the safety impacts, environmental impacts, and cost effectiveness of different pavement marking systems and the effect of State bidding and procurement processes on the quality of pavement marking material employed in highway projects. The demonstration projects shall each include an evaluation of the impacts and effectiveness of increasing the width of pavement marking edge lines from 4 inches to 6 inches and an evaluation of advanced acrylic water-borne pavement markings.

[(b) REPORT.—Not later than June 30, 2009, the Secretary shall submit to Congress a report on the results of the demonstration projects, together with findings and recommendations on methods that will optimize the cost-benefit ratio of the use of Federal funds on pavement marking.

[(c) FUNDING.—

[(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 for each of fiscal years 2006 through 2009.

[(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; expect that the Federal share of the cost of the demonstration projects shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.]

* * * * * * *

[SEC. 1958. LIMITATION ON PROJECT APPROVAL.

[Notwithstanding any provision of title 23, United States Code, the Secretary is prohibited from approving any Federal-aid highway project in Orange and Seminole Counties, Florida, which provides access from Interstate Route 4 to the right-of-way or median of Interstate Route 4 if tolls or toll facilities are used for the access to the right-of-way or median.]

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TITLE II—HIGHWAY SAFETY

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[SEC. 2009. HIGH VISIBILITY ENFORCEMENT PROGRAM.

[(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in subsection (b) in each of years 2006 through 2012.

[(b) PURPOSE.—The purpose of each law enforcement campaign under this section shall be to achieve either or both of the following objectives:

[(1) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

[(2) Increase use of seat belts by occupants of motor vehicles.

[(c) ADVERTISING.—The Administrator may use, or authorize the use of, funds available to carry out this section to pay for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement campaigns under this section. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

[(d) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this section, including advertising funded under subsection (c), with a view to—

[(1) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, 406, and 410 of title 23, United States Code; and

[(2) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

[(e) USE OF FUNDS.—Funds made available to carry out this section may only be used for activities described in subsections (a), (c), and (f).

[(f) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of campaigns referred to in subsection (a).

[(g) STATE DEFINED.—The term "State" has the meaning such term has under section 401 of title 23, United States Code.

[SEC. 2010. MOTORCYCLIST SAFETY.

[(a) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.

[(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all the other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

[(c) ALLOCATION.—The amount of a grant made to a State for a fiscal year under this section may not be less than $100,000 and may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

[(d) GRANT ELIGIBILITY.—

[(1) IN GENERAL.—A State becomes eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary—

[(A) for the first fiscal year for which the State will receive a grant under this section, at least 1 of the 6 criteria listed in paragraph (2); and

[(B) for the second, third, fourth, fifth, sixth, and seventh fiscal years for which the State will receive a grant under this section, at least 2 of the 6 criteria listed in paragraph (2).

[(2) CRITERIA.—The criteria for eligibility for a grant under this section are the following:

[(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists and that may include innovative training opportunities to meet unique regional needs.

[(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.

[(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).

[(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

[(E) REDUCTION OF FATALITIES AND ACCIDENTS INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

[(F) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs will be used for motorcycle training and safety programs.

[(e) ELIGIBLE USES.—

[(1) IN GENERAL.—A State may use funds from a grant under this section only for motorcyclist safety training and motorcyclist awareness programs, including—

[(A) improvements to motorcyclist safety training curricula;

[(B) improvements in program delivery of motorcycle training to both urban and rural areas, including—

[(i) procurement or repair of practice motorcycles;

[(ii) instructional materials;

[(iii) mobile training units; and

[(iv) leasing or purchasing facilities for closed-course motorcycle skill training;

[(C) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

[(D) public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the "share-the-road" safety messages developed under subsection (g).

[(2) SUBALLOCATIONS OF FUNDS.—An agency of a State that receives a grant under this section may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out under this section.

[(f) DEFINITIONS.—In this section, the following definitions apply:

[(1) MOTORCYCLIST SAFETY TRAINING.—The term "motorcyclist safety training" means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

[(2) MOTORCYCLIST AWARENESS.—The term "motorcyclist awareness" means individual or collective awareness of—

[(A) the presence of motorcycles on or near roadways; and

[(B) safe driving practices that avoid injury to motorcyclists.

[(3) MOTORCYCLIST AWARENESS PROGRAM.—The term "motorcyclist awareness program" means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

[(4) STATE.—The term "State" has the same meaning such term has in section 101(a) of title 23, United States Code.

[(g) SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the National Highway Traffic Safety Administration, shall develop and provide to the States model language for use in traffic safety education courses, driver's manuals, and other driver's training materials instructing the drivers of motor vehicles on the importance of sharing the roads safely with motorcyclists.

[SEC. 2011. CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.

[(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants to States that are enforcing a law requiring that any child riding in a passenger motor vehicle in the State who is too large to be secured in a child safety seat be secured in a child restraint that meets the requirements prescribed by the Secretary under section 3 of Anton's Law (49 U.S.C. 30127 note; 116 Stat. 2772).

[(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for child safety seat and child restraint pro-

grams at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

[(c) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this section shall not exceed—

[(1) for the first 3 fiscal years for which a State receives a grant under this section, 75 percent; and

[(2) for the fourth, fifth, sixth, and seventh fiscal years for which a State receives a grant under this section, 50 percent.

[(d) USE OF GRANT AMOUNTS.—

[(1) ALLOCATIONS.—Of the amounts received by a State in grants under this section for a fiscal year not more than 50 percent shall be used to fund programs for purchasing and distributing child safety seats and child restraints to low-income families.

[(2) REMAINING AMOUNTS.—Amounts received by a State in grants under this section, other than amounts subject to paragraph (1), shall be used to carry out child safety seat and child restraint programs, including the following:

[(A) A program to support enforcement of child restraint laws.

[(B) A program to train child passenger safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child safety seats and child restraints.

[(C) A program to educate the public concerning the proper use and installation of child safety seats and child restraints.

[(e) GRANT AMOUNT.—The amount of a grant to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

[(f) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) of such title shall apply to this section.

[(g) REPORT.—A State that receives a grant under this section shall transmit to the Secretary a report documenting the manner in which the grant amounts were obligated and expended and identifying the specific programs carried out using the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under of chapter 4 of title 23, United States Code.

[(h) DEFINITIONS.—In this section, the following definitions apply:

[(1) CHILD RESTRAINT.—The term "child restraint" means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

[(2) CHILD SAFETY SEAT.—The term "child safety seat" has the meaning such term has in section 405(f) of title 23, United States Code.

[(3) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" has the meaning such term has in section 405(f) of such title.

[(4) STATE.—The term "State" has the meaning such term has in section 101(a) of such title.]

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[SEC. 2013. DRUG-IMPAIRED DRIVING ENFORCEMENT.

[(a) ILLICIT DRUG.—In this section, the term "illicit drug" includes substances listed in schedules I through V of section 112(e) of the Controlled Substances Act (21 U.S.C. 812) not obtained by a legal and valid prescription.

[(b) DUTIES.—The Secretary shall—

[(1) advise and coordinate with other Federal agencies on how to address the problem of driving under the influence of an illegal drug; and

[(2) conduct research on the prevention, detection, and prosecution of driving under the influence of an illegal drug.

[(c) REPORT.—

[(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in cooperation with the National Institutes of Health, shall submit to Congress a report on the problem of drug-impaired driving.

[(2) CONTENTS.—The report shall include, at a minimum, the following:

[(A) An assessment of methodologies and technologies for measuring driver impairment resulting from use of the most common illicit drugs (including the use of such drugs in combination with alcohol).

[(B) Effective and efficient methods for training law enforcement personnel, including drug recognition experts, to detect or measure the level of impairment of a driver who is under the influence of an illicit drug by the use of technology or otherwise.

[(C) A description of the role of drugs as causal factor in traffic crashes and the extent of the problem of drug-impaired driving.

[(D) A description and assessment of current State and Federal laws relating to drug-impaired driving.

[(E) Recommendations for addressing the problem of drug-impaired driving, including recommendations on levels of impairment.

[(F) Recommendations for developing a model statute relating to drug-impaired driving.

[(d) MODEL STATUTE.—

[(1) IN GENERAL.—The Secretary shall develop a model statute for States relating to drug-impaired driving.

[(2) CONTENTS.—Based on recommendations and findings contained in the report submitted under subsection (c), the model statute may include—

[(A) threshold levels of impairment for illicit drugs;

[(B) practicable methods for detecting the presence of illicit drugs; and

[(C) penalties for drug impaired driving.

[(3) DATE.—The model statute shall be provided to States not later than 1 year after date of submission of the report under subsection (c).

[(e) RESEARCH AND DEVELOPMENT.—Section 403(b) of title 23, United States Code, is amended by adding at the end the following:

["(5) Technology to detect drug use and enable States to efficiently process toxicology evidence.

["(6) Research on the effects of illicit drugs and the compound effects of alcohol and illicit drugs on impairment.".

[(f) FUNDING.—Out of amounts made available to carry out section 403 of title 23, United States Code, for each of fiscal years 2006 through 2012, the Secretary shall make available $1,200,000 for such fiscal year to carry out this section.

[SEC. 2014. FIRST RESPONDER VEHICLE SAFETY PROGRAM.

[(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the National Highway Traffic Safety Administration, should—

[(1) develop and implement a comprehensive program to promote compliance with State and local laws intended to increase the safe and efficient operation of first responder vehicles;

[(2) compile a list of best practices by State and local governments to promote compliance with the laws described in paragraph (1);

[(3) analyze State and local laws intended to increase the safe and efficient operation of first responder vehicles; and

[(4) develop model legislation to increase the safe and efficient operation of first responder vehicles.

[(b) PARTNERSHIPS.—The Secretary may enter into partnerships with qualified organizations to carry out this section.

[(c) PUBLIC OUTREACH.—The Secretary shall use a variety of public outreach strategies to carry out this section, including public service announcements, publication of informational materials, and posting information on the Internet.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for fiscal year 2006.]

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[SEC. 2016. RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM.

[(a) IN GENERAL.—From funds made available to carry out section 403 of title 23, United States Code, for fiscal year 2006, the Secretary shall make $1,000,000 available to conduct a pilot program for optimizing emergency medical services in a rural State.

[(b) COLLECTING DATA.—The pilot program shall focus on collecting geo-coded data for highway accidents and resulting injuries, analyzing data to develop injury patterns and distributions, and improving placement and management of emergency medical services resources and personnel.

[(c) SELECTION.—The Secretary shall enter into an agreement with the State of Alaska to conduct the pilot program.

[(d) REPORT.—Not later than 12 months after the completion of the pilot program, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the pilot program and recommendations for application to other rural States.

[SEC. 2017. OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.

[(a) IMPROVING OLDER DRIVER SAFETY.—

[(1) IN GENERAL.—Of the funds made available to carry out section 403 of title 23, United States Code, the Secretary shall allocate $1,700,000 for each of fiscal years 2006 through 2012 to conduct a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers.

[(2) ELEMENTS OF PROGRAM.—The program shall—

[(A) provide information and guidelines to assist older drivers, physicians, and other related medical personnel, families, licensing agencies, enforcement officers, and various public and transit agencies in enhancing the safety of older drivers;

[(B) improve the scientific basis of medical standards and screenings strategies used in the licensing of all drivers in a non-discriminatory manner;

[(C) conduct field tests to assess the safety benefits and mobility impacts of different driver licensing strategies and driver assessment and rehabilitation methods;

[(D) assess the value and improve the safety potential of driver retraining courses of particular benefit to older drivers; and

[(E) conduct other activities to accomplish the objectives of this section.

[(3) FORMULATION OF PLAN.—After consultation with affected parties, the Secretary shall formulate an older driver traffic safety plan to guide the design and implementation of the program.

[(4) SUBMISION OF PLAN TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the plan to the Committee on Transportation and Infrastructure House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

[(b) LAW ENFORCEMENT TRAINING.—

[(1) REQUIREMENT FOR PROGRAM.—The Secretary shall carry out a program to provide guidance and support to law enforcement agencies in police chase techniques that are consistent with the police chase guidelines issued by the International Association of Chiefs of Police.

[(2) AMOUNT FOR PROGRAM.—Of the funds made available to carry out section 403 of title 23, United States Code, the Secretary shall allocate $500,000 in each of fiscal years 2006 through 2012 to carry out this subsection.]

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TITLE III—PUBLIC TRANSPORTATION

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SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) * * *

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[(i) CONTRACTED PARATRANSIT PILOT.—

[(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2012, a recipient of assistance under section 5307 of such title in urbanized areas with a population of 558,329 or 747,003 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of such title for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

[(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the implementation of this subsection and any recommendations of the Secretary regarding the application of this subsection.]

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SEC. 3012. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

(a) * * *

[(b) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—

[(1) IN GENERAL.—In fiscal year 2006, the Secretary shall establish a pilot program that will allow Wisconsin, Alaska, Minnesota, Oregon, and 3 other States selected by the Secretary to use not more than 33 percent of the funds apportioned to each State to carry out section 5310 of title 49, United States Code, for operating costs associated with public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities under such section. The Secretary may base the selection of participating States on a State's exemplary coordination of public transit-human services transportation. The Secretary may require participants to collect data necessary to support the report to Congress required by paragraph (7).

[(2) PLANNING COORDINATION.—Recipients of funds made available consistent with this subsection shall certify that—

[(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

[(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

[(3) GOVERNMENT'S SHARE OF COSTS.—Operating assistance under this subsection may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for formula grants for the special needs

of elderly individuals and individuals with disabilities program authorized under section 5310 of title 49, United States Code.

[(4) REMAINDER.—The remainder of the net project costs—

[(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

[(5) USE OF CERTAIN FUNDS.—For purposes of paragraph (4)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

[(6) ELIGIBLE ACTIVITIES.—Projects eligible under the pilot program may include the collection of data necessary to support the report to Congress required by paragraph (7).

[(7) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program, which may include—

[(A) the extent to which funds were used to subsidize existing paratransit service provided in compliance with the Americans with Disabilities Act of 1990;

[(B) whether States participating in the pilot program use the funds to provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 differently than States not in the pilot program;

[(C) whether States participating in this pilot program use the funds to provide services to individuals with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 to the detriment of other eligible projects;

[(D) the percentage of funds used to assist elderly individuals;

[(E) the percentage of funds used to assist individuals with disabilities;

[(F) the extent to which States participating in this pilot program serve a wider range of elderly, low income, and persons with disabilities populations;

[(G) whether the pilot program improves services to elderly individuals and individuals with disabilities;

[(H) the extent to which States participating in the pilot program were able to expand the range of transportation alternatives available to elderly individuals and individuals with disabilities; and

[(I) whether the pilot program facilitates or discourages coordination with or integration of other funding sources.

[(8) SUNSET.—This subsection shall cease to be effective on September 30, 2012.]

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[SEC. 3045. NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.

[(a) ESTABLISHMENT.—The Secretary shall establish a national fuel cell bus technology development program (in this section referred to as the "program") to facilitate the development of commercially viable fuel cell bus technology and related infrastructure.

[(b) GENERAL AUTHORITY.—The Secretary may enter into grants, contracts, and cooperative agreements with no more than 3 geographically diverse nonprofit organizations and recipients under chapter 53 of title 49, United States Code, to conduct fuel cell bus technology and infrastructure projects under the program.

[(c) GRANT CRITERIA.—In selecting applicants for grants under the program, the Secretary shall consider the applicant's—

[(1) ability to contribute significantly to furthering fuel cell technology as it relates to transit bus operations, including hydrogen production, energy storage, fuel cell technologies, vehicle systems integration, and power electronics technologies;

[(2) financing plan and cost share potential;

[(3) fuel cell technology to ensure that the program advances different fuel cell technologies, including hydrogen-fueled and methanol-powered liquid-fueled fuel cell technologies, that may be viable for public transportation systems; and

[(4) other criteria that the Secretary determines are necessary to carry out the program.

[(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under the program. Grant recipients shall be selected on a competitive basis. The Secretary shall give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 5 years.

[(e) FEDERAL SHARE.—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost.

[(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

[(1) all terms and conditions applicable to a grant made under section 5309 of title 49, United States Code; and

[(2) such other terms and conditions as are determined by the Secretary.

[SEC. 3046. ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.

[(a) IN GENERAL.—Amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title shall be allocated by the Secretary as follows:

[(1) PUBLIC TRANSPORTATION NATIONAL SECURITY STUDY.—

[(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences

to conduct a study and evaluation of the value major public transportation systems in the United States serving the 38 urbanized areas that have a population of more than 1,000,000 individuals provide to the Nation's security and the ability of such systems to accommodate the evacuation, egress or ingress of people to or from critical locations in times of emergency.

[(B) ALTERNATIVE ROUTES.—For each system described in subparagraph (A) the study shall identify—

[(i) potential alternative routes for evacuation using other transportation modes such as highway, air, marine, and pedestrian activities; and

[(ii) transit routes that, if disrupted, do not have sufficient transit alternatives available.

[(C) REPORT.—Not later than 24 months after the date of entry into the agreement, the Academy shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a final report on the results of the study and evaluation, together with such recommendations as the Academy considers appropriate.

[(D) FUNDING.—For each of fiscal year 2006 and 2007 $250,000 shall be available to carry out this paragraph.

[(2) CENTER FOR TRANSIT-ORIENTED DEVELOPMENT.—For each of fiscal years 2006 through 2009, not less than $1,000,000 shall be made available by the Secretary for establishment and operation of the Center for Transit-Oriented Development—

[(A) to develop standards and definitions for transit-oriented development adjacent to public transportation facilities;

[(B) to develop system planning guidance, performance criteria, and modeling techniques for metropolitan planning agencies and public transportation agencies to maximize ridership through land use planning and adjacent development; and

[(C) to provide research support and technical assistance to public transportation agencies, metropolitan planning agencies, and other persons regarding transit-oriented development.

[(3) TRANSPORTATION EQUITY RESEARCH PROGRAM.—For each of fiscal years 2006 through 2009, not less than $1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the impacts that transportation planning, investment, and operations have on low-income and minority populations that are transit dependent. Such activities shall include the development of strategies to advance economic and community development in low-income and minority communities and the development of training programs that promote the employment of low-income and minority community residents on Federal-aid transportation projects constructed in their communities.

[(4) COGNITIVE IMPAIRMENT STUDY.—For fiscal year 2006, $1,000,000 shall be made available by the Secretary for re-

search and demonstration activities that focus on the capacity and resources of Oregon public transportation systems to address the needs, barriers, and desires for travel of people with cognitive impairments.

[(5) TRANSIT CAREER LADDER TRAINING PROGRAM.—For each of fiscal years 2006 through 2009, not less than $1,000,000 shall be available for a nationwide career ladder job training partnership program for public transportation employees to respond to technological changes in the public transportation industry, especially in the area of maintenance. Such program shall be carried out by the Secretary through a contract with a national nonprofit organization with a demonstrated capacity to develop and provide such programs.

[(6) PILOT PROGRAM FOR REMOTE INFRARED AUDIBLE SIGNS.—

[(A) IN GENERAL.—For each of fiscal years 2006 through 2009, not less than $500,000 shall be made available by the Secretary to carry out a pilot program to determine the benefits of remote infrared audible signage technology for provision of wayfinding and information to people who are visually, cognitively, or learning disabled.

[(B) REPORT.—

[(i) IN GENERAL.—Not later than September 30, 2009, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program carried out under this section.

[(ii) CONTENTS.—The report—

[(I) shall include—

[(aa) an evaluation of the effect of the pilot program on multimodal accessibility in public transportation;

[(bb) an evaluation of the effect of the program on operators of public transportation and their passengers;

[(cc) an evaluation of the effect of making public transportation accessible to people with visual, cognitive, and learning disabilities on ridership of public transportation and use of paratransit; and

[(dd) an evaluation of the effect of the program on the education, community integration, work life, and general quality of life of the targeted populations.

[(7) HYDROGEN FUEL CELL SHUTTLE DEPLOYMENT DEMONSTRATION PROJECT.—To demonstrate the utility of hydrogen fueled vehicles in daily shuttle service, $800,000 in each of fiscal years 2006 and 2007 shall be provided for hydrogen fueled employee shuttle vans, related equipment, operations, public education and outreach to the DaVinci Center in Allentown, Pennsylvania.

[(8) WISCONSIN SUPPLEMENTAL TRANSPORTATION RURAL ASSISTANCE PROGRAM (STRAP).—

[(A) IN GENERAL.—For capital projects, operations, purchase or lease of vehicles, and integration, planning and

coordination of public transportation services in the State of Wisconsin that will supplement and expand existing rural and special public transportation services in that State, $2,000,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to the State of Wisconsin Department of Transportation.

[(B) PURPOSE.—Funds received under this program may be used to supplement public transportation programs for rural populations for activities authorized under sections 5310, 5311, and 5316 of title 49, United States Code. Funds made available under this program are subject to the requirements of section 5311 of title 49, United States Code, except that funds may be made available for up to 80 percent of net operating costs. In awarding grants made available under this program, the State shall consider—

[(i) rural population in the area to be served by the applicant;

[(ii) extent to which the applicant demonstrates coordination of existing transportation services or proposed public transportation services;

[(iii) need for additional services in the area being serviced by the applicant and the extent to which the proposed services will address those needs and provide accessibility for non-ambulatory recipients;

[(iv) extent to which the applicant demonstrates an innovative approach that is responsive to the identified service needs of the rural population; and

[(v) extent to which the applicant demonstrates that the communities being served have been consulted in the planning process.

[(9) HUMAN SERVICES TRANSPORTATION COORDINATION.—

[(A) IN GENERAL.—For the management of a program to improve and enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation, $1,600,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to a national non-profit organization that is competitively selected by the Secretary. Such organization shall have demonstrated expertise in issues of transportation coordination and in providing technical assistance to local transportation organizations.

[(B) ELIGIBLE ACTIVITIES.—Under this program, the organization selected by the Secretary shall—

[(i) establish an advisory panel consisting of Federal, State, and local officials and organizations;

[(ii) prepare an inventory of human service transportation agencies operating in the United States;

[(iii) prepare an inventory of Federal transportation spending;

[(iv) develop a program of technical assistance and training for human services transportation organizations that shall include on-site technical assistance, a resource clearinghouse, and preparation of technical manuals;

[(v) prepare an annual report for the Secretary on activities under this program and make recommendations for improving coordination.

[(10) PORTLAND, OREGON STREETCAR PROTOTYPE PURCHASE AND DEPLOYMENT.—Not less than $1,000,000 shall be made available in each of fiscal years 2006, 2007, 2008, and 2009 by the Secretary to TriMet for the purchase and deployment of a domestically manufactured streetcar.

[(11) PUBLIC TRANSPORTATION PARTICIPATION PILOT PROGRAM.—

[(A) IN GENERAL.—Of the funds allocated under this section for each of fiscal years 2006 through 2009, $1,000,000 for each fiscal year shall be made available by the Secretary to establish a pilot program to support planning and public participation activities related to public transportation projects.

[(B) ELIGIBLE ACTIVITIES.—Activities eligible to be carried out under the pilot program may include the following:

[(i) Improving data collection analysis and transportation access for all users of the public transportation systems.

[(ii) Supporting public participation through the project development phases.

[(iii) Using innovative techniques to improve the coordination of transportation alternatives.

[(iv) Enhancing the coordination of public transportation benefits and services.

[(v) Contracting with stakeholders to focus on the delivery of transportation plans and programs.

[(vi) Measuring and reporting on the annual performance of the transportation systems.

[(12) TRANSPORTATION HYBRID ELECTRIC VEHICLE AND FUEL CELL RESEARCH.—$500,000 in each of fiscal years 2006 through 2009 for a transportation hybrid electric vehicle and fuel cell research program at the University of Alabama.

[(13) TRAUMA CARE SYSTEM RESEARCH AND DEVELOPMENT.—$500,000 in each of fiscal years 2006 through 2009 for trauma care system research and development at the University of Alabama in Birmingham.

[(14) TRANSPORTATION INFRASTRUCTURE AND LOGISTICS RESEARCH.—$500,000 in each of fiscal years 2006 through 2009 for transportation infrastructure and logistics research at the University of Alabama in Huntsville.

[(15) NATIONAL BUS RAPID TRANSIT INSTITUTE.—$1,750,000 in each of fiscal years 2006 though 2009 for the National Bus Rapid Transit Institute at the University of South Florida.

[(16) APPLICATION OF INFORMATION TECHNOLOGY TO TRANSPORTATION LOGISTICS AND SECURITY.—$400,000 in each of fiscal years 2006 through 2009 for research on the application of information technology to transportation logistics and security at the Northern Kentucky University.

[(17) INTELLIGENT TRANSPORTATION SYSTEM PILOT PROJECT.—$465,000 in each of fiscal years 2006 through 2009 for an intelligent transportation system pilot project with the

National Consortium on Remote Sensing in Transportation Flows at the Ohio State University.

[(18) REGIONAL PUBLIC SAFETY TRAINING CENTER.—$500,000 in each of fiscal years 2006 through 2009 for a regional public safety training center at the Lehigh-Carbon Community College.

[(19) TRANSIT SECURITY TRAINING FACILITY.—$750,000 in each of fiscal years 2006 though 2009 for a transit security training facility in Chester County, Pennsylvania.

[(20) SMALL URBAN AND RURAL TRANSIT CENTER.—$800,000 in fiscal year 2006, $800,000 in fiscal year 2007, $1,200,000 in fiscal year 2008, and $1,200,000 in fiscal year 2009 for the Small Urban and Rural Transit Center at North Dakota State University.

[(21) ADVANCED TECHNOLOGY BUS RAPID TRANSIT PROJECT.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $550,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the Southeastern Connecticut Advanced Technology Bus Rapid Transit Project.

[(22) GREATER NEW HAVEN TRANSIT DISTRICT FUEL CELL-POWERED BUS RESEARCH.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $550,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the Greater New Haven Transit District Fuel Cell-Powered Bus Research.

[(23) CENTER FOR ADVANCED TRANSPORTATION INITIATIVES.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $540,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the Rutgers Center for Advanced Transportation Initiatives (CAIT).

[(24) INSTITUTE OF TECHNOLOGY'S TRANSPORTATION, ECONOMIC, AND LAND USE SYSTEM.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $540,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the New Jersey Institute of Technology's Transportation, Economic, and Land Use System program (TELUS).

[(25) REGIONAL TRANSIT TRAINING CONSORTIUM PILOT PROGRAM.—$270,000 in fiscal year 2006, $380,000 in fiscal year 2007, $380,000 in fiscal year 2008, and $450,000 in fiscal year 2009 for the Southern California Regional Transit Training Consortium Pilot Program.

[(b) REMAINDER.—After making allocations under subsection (a), the remainder of funds made available by section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 for a fiscal year shall be allocated at the discretion of the Secretary to other transit research, development, demonstration and deployment projects authorized by sections 5312, 5314, and 5322 of such title.

[(c) ADDITIONAL APPROPRIATIONS.—The Secretary shall allocate amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title—

[(1) for each of fiscal years 2010 and 2011, in amounts equal to the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), (6), and (8) through (25) of subsection (a); and

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

[(d) FUNDING.—If the Secretary determines that a project or activity described in subsection (a) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under subsection (c) for the project or activity for fiscal year 2012, or any subsequent fiscal year.]

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TITLE IV—MOTOR CARRIER SAFETY

* * * * * * *

Subtitle A—Commercial Motor Vehicle Safety

* * * * * * *

SEC. 4123. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.

(a) * * *

* * * * * * *

[(c) GRANTS.—

[(1) IN GENERAL.—The Secretary may make a grant to a State or organization representing agencies and officials of a State in a fiscal year to modernize the commercial driver's license information system of the State to be compatible with the modernized commercial driver's license information system under section 31309 of title 49, United States Code, if the State is in substantial compliance with the requirements of section 31311 of such title and this section, as determined by the Secretary.

[(2) CRITERIA.—The Secretary shall establish criteria for the distribution of grants and notify each State annually of such criteria.

[(3) USE OF GRANT.—A State may use a grant under this subsection only to implement improvements that are consistent with the modernization plan developed by the Secretary.

[(4) GOVERNMENT SHARE.—A grant under this subsection to a State or organization may not be for more than 80 percent of the costs incurred by the State or organization in a fiscal year in modernizing the commercial driver's license information system of the State to be compatible with the modernized commercial driver's license information system under section 31309 of title 49, United States Code. In determining these costs, the Secretary shall include in-kind contributions of the State.

[(d) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

[(1) $5,000,000 for fiscal year 2006;

[(2) $7,000,000 for fiscal year 2007;
[(3) $8,000,000 for fiscal year 2008;
[(4) $8,000,000 for fiscal year 2009;
[(5) $8,000,000 for fiscal year 2010; and
[(6) $8,000,000 for fiscal year 2011.

[(e) CONTRACT AUTHORITY AND AVAILABILITY.—

[(1) PERIOD OF AVAILABILITY.—The amounts made available under subsection (d) shall remain available until expended.

[(2) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (d) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

[(3) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (d) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.]

* * * * * * *

SEC. 4126. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

(1) improve the safety and productivity of commercial vehicles and drivers; [and]

(2) reduce costs associated with commercial vehicle operations [and Federal and State commercial vehicle regulatory requirements.]*;*

(3) facilitate compliance with Federal and State commercial motor vehicle regulatory requirements; and

(4) provide assistance for State participation in the performance and registration information systems management program under section 31109.

* * * * * * *

(c) CORE DEPLOYMENT GRANTS.—

(1) * * *

[(2) AMOUNT OF GRANTS.—The maximum aggregate amount the Secretary may grant to a State for the core deployment of commercial vehicle information systems and networks under this subsection and sections 5001(a)(5) and 5001(a)(6) of the Transportation Equity Act for the 21st Century (112 Stat. 420) may not exceed $2,500,000.]

[(3)] *(2)* USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. An eligible State that has either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before grant funds are expended under this subsection may use the grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

(d) EXPANDED DEPLOYMENT GRANTS.—

(1) * * *

* * * * * * *

[(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.]

[(4)] *(3)* USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

(e) ELIGIBILITY.—To be eligible for a grant under this section, a State—

(1) * * *

(2) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—

(A) * * *

(B) promote interoperability and efficiency *in interstate commerce* to the extent practicable; [and]

(3) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks[.]*; and*

(4) shall be participating not later than September 30, 2015, in the performance and registration information systems management program under section 31109 of title 49, United States Code.

(f) FEDERAL SHARE.—[The Federal]

(1) IN GENERAL.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible Federal sources shall not exceed 80 percent.

(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.—Notwithstanding any other provision of this subsection, the Federal share of the cost of a project relating to participation in the performance and registration information systems management program under section 31109 of title 49, United States Code, shall be 100 percent for fiscal years 2013 through 2016.

* * * * * * *

[SEC. 4127. OUTREACH AND EDUCATION.

[(a) IN GENERAL.—The Secretary shall conduct, through any combination of grants, contracts, or cooperative agreements, an outreach and education program to be administered by the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration.

[(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

[(1) A program to promote a more comprehensive and national effort to educate commercial motor vehicle drivers and passenger vehicle drivers about how commercial motor vehicle

drivers and passenger vehicle drivers can more safely share the road with each other.

[(2) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or contribute to crashes involving commercial motor vehicles and passenger vehicles.

[(3) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in paragraphs (1) and (2) to each partner's constituents and to the general public through the use of brochures, videos, paid and public advertisements, the Internet, and other media.

[(c) FEDERAL SHARE.—The Federal share of a program or activity for which a grant is made under this section shall be 100 percent of the cost of such program or activity.

[(d) ANNUAL REPORT.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section. The final annual report shall be submitted not later than September 30, 2009.

[(e) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 to the Federal Motor Carrier Safety Administration, and $3,000,000 to the National Highway Traffic Safety Administration, for each of fiscal years 2006, 2007, 2008, 2009, 2010, 2011, and 2012 to carry out this section (other than subsection (f)).

[(f) STUDY.—The Comptroller General shall update the Government Accountability Office's evaluation of the "Share the Road Safely" program to determine if it has achieved reductions in the number and severity of commercial motor vehicle crashes, including reductions in the number of deaths and the severity of injuries sustained in these crashes and shall report its updated evaluation to Congress no later than June 30, 2006.

[SEC. 4128. SAFETY DATA IMPROVEMENT PROGRAM.

[(a) IN GENERAL.—The Secretary shall make grants to States for projects and activities to improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary.

[(b) ELIGIBILITY.—A State shall be eligible for a grant under this section in a fiscal year if the Secretary determines that the State has—

[(1) conducted a comprehensive audit of its commercial motor vehicle safety data system within the preceding 2 years;

[(2) developed a plan that identifies and prioritizes its commercial motor vehicle safety data needs and goals; and

[(3) identified performance-based measures to determine progress toward those goals.

[(c) FEDERAL SHARE.—The Federal share of a grant under this section shall be 80 percent of the cost of the activities for which the grant is made.

[(d) BIENNIAL REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the activities and results of

the program carried out under this section, together with any recommendations the Secretary determines appropriate.]

* * * * * * *

[SEC. 4134. GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.

[(a) ESTABLISHMENT.—The Secretary shall establish a grant program for persons to train operators of commercial motor vehicles (as defined in section 31301 of title 49, United States Code). The purpose of the program shall be to train operators and future operators in the safe use of such vehicles.

[(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

[(c) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 for each of fiscal years 2005 through 2012 to carry out this section.]

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SEC. 4144. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

(a) * * *

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(d) TERMINATION DATE.—Notwithstanding the Federal Advisory Committee Act (5 U.S.C. App.), the advisory committee [shall terminate on September 30, 2012.] *shall terminate on September 30, 2017.*

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TITLE V—RESEARCH

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Subtitle C—Intelligent Transportation System Research

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[SEC. 5303. GOALS AND PURPOSES.

[(a) GOALS.—The goals of the intelligent transportation system program include—

[(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

[(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

[(3) protection and enhancement of the natural environment and communities affected by surface transportation, with par-

ticular emphasis on assisting State and local governments to achieve national environmental goals;

[(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles and pedestrians, including individuals with disabilities; and

[(5) improvement of the Nation's ability to respond to security-related or other manmade emergencies and natural disasters and enhancement of national defense mobility.

[(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

[(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

[(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

[(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

[(4) promote the innovative use of private resources;

[(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

[(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

[(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

[(8) provide continuing support for operations and maintenance of intelligent transportation systems.

[SEC. 5304. INFRASTRUCTURE DEVELOPMENT.

[Funds made available to carry out this subtitle for operational tests—

[(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

[(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

[SEC. 5305. GENERAL AUTHORITIES AND REQUIREMENTS.

[(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

[(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

[(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local

governments and other public entities, the private sector firms of the United States, the Federal laboratories, and colleges and universities, including historically Black colleges and universities and other minority institutions of higher education.

[(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

[(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

[(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

[(g) INFORMATION CLEARINGHOUSE.—

[(1) IN GENERAL.—The Secretary shall—

[(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle (including the amendments made by this subtitle); and

[(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

[(2) AGREEMENT.—

[(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

[(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

[(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

[(h) ADVISORY COMMITTEE.—

[(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this subtitle.

[(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

[(A) a representative from a State highway department;

[(B) a representative from a local highway department who is not from a metropolitan planning organization;

[(C) a representative from a State, local, or regional transit agency;

[(D) a representative from a metropolitan planning organization;

[(E) a private sector user of intelligent transportation system technologies;

[(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

[(G) an academic researcher who is a civil engineer;

[(H) an academic researcher who is a social scientist with expertise in transportation issues;

[(I) a representative from a nonprofit group representing the intelligent transportation system industry;

[(J) a representative from a public interest group concerned with safety;

[(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

[(L) members with expertise in planning, safety, and operations.

[(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

[(A) Provide input into the development of the Intelligent Transportation System aspects of the strategic plan under section 508 of title 23, United States Code.

[(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

[(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

[(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

[(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

[(4) REPORT.—Not later than February 1 of each year after the date of enactment of this Act, the Secretary shall transmit to the Congress a report including—

[(A) all recommendations made by the Advisory Committee during the preceding calendar year;

[(B) an explanation of how the Secretary has implemented those recommendations; and

[(C) for recommendations not implemented, the reasons for rejecting the recommendations.

[(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[(i) REPORTING.—

[(1) GUIDELINES AND REQUIREMENTS.—

[(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this subtitle.

[(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or ap-

parent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

[(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

[(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44, United States Code.

[SEC. 5306. RESEARCH AND DEVELOPMENT.

[(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this subtitle.

[(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

[(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

[(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

[(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

[(A) reducing metropolitan congestion by not less than 5 percent by 2010;

[(B) ensuring that a national, interoperable 5–1–1 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

[(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

[(ii) improving communication between emergency care providers and trauma centers;

[(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

[(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

[(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

[(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

[(c) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80.

[SEC. 5307. NATIONAL ARCHITECTURE AND STANDARDS.

[(a) IN GENERAL.—

[(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

[(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

[(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

[(4) USE OF EXPERT PANEL.—

[(A) DESIGNATION.—The Secretary shall designate a panel of experts to recommend ways to expedite and streamline the process for developing the standards and protocols to be developed pursuant to paragraph (1).

[(B) NONAPPLICABILITY OF ADVISORY COMMITTEE ACT.—The expert panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[(C) DEADLINE FOR RECOMMENDATION.—Not later than September 30, 2007, the expert panel shall provide the Secretary with a recommendation relating to such standards development.

[(b) PROVISIONAL STANDARDS.—

[(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.

[(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

[(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

[(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system

technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

[(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

[(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508 of title 23, United States Code; or

[(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this Act if the Secretary determines that the upgrade or expansion—

[(i) would not adversely affect the goals or purposes of this subtitle;

[(ii) is carried out before the end of the useful life of such system; and

[(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

[(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this Act.

[SEC. 5308. ROAD WEATHER RESEARCH AND DEVELOPMENT PROGRAM.

[(a) ESTABLISHMENT.—The Secretary shall establish a road weather research and development program to—

[(1) maximize use of available road weather information and technologies;

[(2) expand road weather research and development efforts to enhance roadway safety, capacity, and efficiency while minimizing environmental impacts; and

[(3) promote technology transfer of effective road weather scientific and technological advances.

[(b) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall consult with the National Oceanic and Atmospheric Administration, the National Science Foundation, the American Association of State Highway and Transportation Officials, nonprofit organizations, and the private sector.

[(c) CONTENTS.—The program established under this section shall solely carry out research and development called for in the National Research Council's report entitled "A Research Agenda for Improving Road Weather Services". Such research and development includes—

[(1) integrating existing observational networks and data management systems for road weather applications;

[(2) improving weather modeling capabilities and forecast tools, such as the road surface and atmospheric interface;

[(3) enhancing mechanisms for communicating road weather information to users, such as transportation officials and the public; and

[(4) integrating road weather technologies into an information infrastructure.

[(d) ACTIVITIES.—In carrying out this section, the Secretary shall—

[(1) enable efficient technology transfer;

[(2) improve education and training of road weather information users, such as State and local transportation officials and private sector transportation contractors; and

[(3) coordinate with transportation weather research programs in other modes, such as aviation.

[(e) FUNDING.—

[(1) IN GENERAL.—In awarding funds under this section, the Secretary shall give preference to applications with significant matching funds from non-Federal sources.

[(2) FUNDS FOR ROAD WEATHER RESEARCH AND DEVELOPMENT.—Of the amounts made available by section 5101(a)(5) of this Act, $5,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

[SEC. 5309. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

[(a) ESTABLISHMENT.—The Secretary shall establish 4 centers for surface transportation excellence.

[(b) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.

[(c) ROLE OF CENTERS.—To achieve the goals set forth in subsection (b), the Secretary shall establish the 4 centers as follows:

[(1) ENVIRONMENTAL EXCELLENCE.—To provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in planning and delivering environmentally sound surface transportation projects.

[(2) SURFACE TRANSPORTATION SAFETY.—To develop and disseminate advanced transportation safety techniques and innovations in both rural areas and urban communities. The center will use a controlled access highway with state-of-the-art features, to test safety devices and techniques that enhance driver performance, examine advanced pavement and lighting systems, and develop techniques to address older driver and fatigue driver issues.

[(3) RURAL SAFETY.—To provide research, training, and outreach on innovative uses of technology to enhance rural safety and economic development, assess local community needs to improve access to mobile emergency treatment, and develop online and seminar training needs of rural transportation practitioners and policy-makers.

[(4) PROJECT FINANCE.—To provide support to State transportation departments in the development of finance plans and project oversight tools and to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds.

[(d) FUNDING.—

[(1) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $3,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

[(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1) the Secretary shall use such amounts as follows:

[(A) $1,250,000 to establish the Center for Environmental Excellence.

[(B) $750,000 to establish the Center for Excellence in Surface Transportation Safety at the Virginia Tech Transportation Institute.

[(C) $875,000 to establish the Center for Excellence in Rural Safety at the Hubert H. Humphrey Institute, Minnesota.

[(D) $875,000 to establish the Center for Excellence in Project Finance.

[(3) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

[(e) PROGRAM ADMINISTRATION.—

[(1) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary, or receiving a grant to perform research or provide technical assistance under subsections (d)(2)(A) and (d)(2)(D) shall be selected on a competitive basis, to the maximum extent practicable.

[(2) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan that describes—

[(A) the activities to be undertaken; and

[(B) how the work of the center is coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this title. Such plans shall be submitted to the Secretary by January 1, 2006, and each year thereafter.

[SEC. 5310. DEFINITIONS.

[In this subtitle, the following definitions apply:

[(1) INCIDENT.—The term "incident" means a crash, a natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

[(2) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term "intelligent transportation infrastructure" means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

[(3) INTELLIGENT TRANSPORTATION SYSTEM.—The term "intelligent transportation system" means electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

[(4) NATIONAL ARCHITECTURE.—The term "national architecture" means the common framework for interoperability that defines—

[(A) the functions associated with intelligent transportation system user services;

[(B) the physical entities or subsystems within which the functions reside;

[(C) the data interfaces and information flows between physical subsystems; and

[(D) the communications requirements associated with the information flows.

[(5) PROJECT.—The term "project" means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

[(6) STANDARD.—The term "standard" means a document that—

[(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

[(B) may support the national architecture and promote—

[(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

[(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

[(7) STATE.—The term "State" has the meaning given the term under section 101 of title 23, United States Code.

[(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term "transportation systems management and operations" has the meaning given the term under section 101(a) of title 23, United States Code.]

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Subtitle E—Other Programs

[SEC. 5501. TRANSPORTATION SAFETY INFORMATION MANAGEMENT SYSTEM PROJECT.

[(a) IN GENERAL.—The Secretary shall fund and carry out a project to further the development of a comprehensive transportation safety information management system (in this section referred to as "TSIMS").

[(b) PURPOSES.—The purpose of the TSIMS project is to further the development of a software application to provide for the collection, integration, management, and dissemination of safety data from and for use among State and local safety and transportation agencies, including driver licensing, vehicle registration, emergency management system, injury surveillance, roadway inventory, and motor carrier databases.

[(c) FUNDING.—

[(1) FEDERAL FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal years 2006 and 2007 shall be available to carry out the TSIMS project under this section.

[(2) STATE CONTRIBUTION.—The sums authorized in paragraph (1) are intended to supplement voluntary contributions

to be made by State departments of transportation and other State safety and transportation agencies.]

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[SEC. 5506. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES.

[(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.

[(b) PROGRAM.—

[(1) NATIONAL POLICY.—The Secretary shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

[(2) POLICY IMPLEMENTATION.—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under paragraph (1).

[(c) COOPERATION.—The Secretary shall carry out this section in cooperation with a consortium of university research centers.

[(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $7,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

[SEC. 5507. RURAL INTERSTATE CORRIDOR COMMUNICATIONS STUDY.

[(a) STUDY.—The Secretary, in cooperation with the Secretary of Commerce, State departments of transportation, and other appropriate State, regional, and local officials, shall conduct a study on the feasibility of installing fiber optic cabling and wireless communication infrastructure along multistate Interstate System route corridors for improved communications services to rural communities along such corridors.

[(b) CONTENTS OF STUDY.—In conducting the study, the Secretary shall identify—

[(1) impediments to installation of the infrastructure described in subsection (a) along multistate Interstate System route corridors and to connecting such infrastructure to the rural communities along such corridors;

[(2) the effective geographic range of such infrastructure;

[(3) potential opportunities for the private sector to fund, wholly or partially, the installation of such infrastructure;

[(4) potential benefits fiber optic cabling and wireless communication infrastructure may provide to rural communities along such corridors, including the effects of the installation of such infrastructure on economic development, deployment of intelligent transportation systems technologies and applications, homeland security precaution and response, and education and health systems in those communities;

[(5) rural broadband access points for such infrastructure;

[(6) areas of environmental conflict with such installation;

[(7) real estate ownership issues relating to such installation;

[(8) preliminary design for placement of fiber optic cable and wireless towers;

[(9) monetary value of the rights-of-way necessary for such installation;

[(10) applicability and transferability of the benefits of such installation to other rural corridors; and

[(11) safety and other operational issues associated with the installation and maintenance of fiber optic cabling and wire infrastructure within Interstate System rights-of-way and other publicly owned rights-of-way.

[(c) CORRIDOR LOCATIONS.—The study required under subsection (a) shall be conducted for corridors along—

[(1) Interstate Route 90 through rural Wisconsin, southern Minnesota, northern Iowa, and South Dakota;

[(2) Interstate Route 20 through Alabama, Mississippi, and northern Louisiana;

[(3) Interstate Route 91 through Vermont, New Hampshire, and Massachusetts; and

[(4) any other rural corridor the Secretary considers appropriate.

[(d) REPORT TO CONGRESS.—Not later than September 30, 2007, the Secretary shall submit to Congress a report on the results of the study, including any recommendations of the Secretary.

[(e) FEDERAL SHARE.—The Federal share of the cost of the study shall be 100 percent.

[(f) FUNDING.—Of the amounts made available under section 5101(a)(5) of this Act, $1,000,000 shall be available for fiscal year 2006, and $2,000,000 shall be available for fiscal year 2007 to carry out this section.]

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[SEC. 5511. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.

[(a) GRANTS.—The Secretary shall provide grants to the Oklahoma Transportation Center for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

[(b) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $1,408,000 for each of fiscal years 2006 and 2007 shall be available to carry out this section.]

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[SEC. 5513. RESEARCH GRANTS.

[(a) THERMAL IMAGING.—

[(1) IN GENERAL.—The Secretary shall make a grant to carry out a demonstration project that uses a thermal imaging inspection system (TIIS) that leverages state-of-the-art thermal imagery technology, integrated with signature recognition software, providing the capability to identify, in real time, faults and failures in tires, brakes and bearings mounted on commercial motor vehicles.

[(2) USE OF FUNDS.—Funds shall be used—

[(A) to employ a TIIS in a field environment, along the Interstate, to further assess the system's ability to identify

faults in tires, brakes, and bearings mounted on commercial motor vehicles;

[(B) to establish, through statistical analysis, the probability of failure for each component; and

[(C) to develop and integrate a predictive tool into the TIIS, which identifies an impending tire, brake, or bearing failure and provides the use of a time frame in which this failure may occur.

[(3) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $2,000,000 in fiscal year 2006 shall be available to carry out this subsection.

[(b) TRANSPORTATION INJURY RESEARCH.—

[(1) GRANT.—The Secretary shall make a grant to maintain a center for transportation injury research at the Calspan University of Buffalo Research Center, through the North Campus facility located in Amherst, New York, and affiliated with the State University of New York at Buffalo.

[(2) RECOUP COSTS.—Notwithstanding current law, Federal regulations, or Office of Management and Budget circulars or guidance, the Center shall be permitted to recoup direct and indirect costs and apply a 7 percent fee to the grant made under this subsection.

[(3) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $1,250,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

[(c) TECHNOLOGY TRANSFER GRANT.—

[(1) GRANT.—The Secretary shall make grants to the Argonne National Laboratory-Advanced Transportation Technology Center for the purpose of conducting transportation research and demonstration projects that would lead to the exchange of research results with the private sector and collaboration with universities at a centralized location conducive for technology transfer.

[(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $4,000,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

[(d) APPALACHIAN REGIONAL COMMISSION.—

[(1) GRANT.—The Secretary shall make a grant to the Appalachian Regional Commission to conduct a feasibility study for the creation of a system of inland ports and distribution centers in Appalachia.

[(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $500,000 in fiscal year 2006 shall be available to carry out this subsection.

[(e) AUTOMOBILE ACCIDENT INJURY RESEARCH.—

[(1) GRANTS.—The Secretary shall make a grant to the Forsyth Institute for research and technology development for preventing and minimizing head, craniofacial, and spinal cord injuries resulting from automobile accidents.

[(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

[(f) RURAL TRANSPORTATION RESEARCH.—

[(1) GRANTS.—The Secretary shall make grants to the New England Transportation Institute in White River Junction, Vermont for rural transportation research.

[(2) FUNDING.—

[(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal year 2006 shall be available to carry out this subsection and shall remain available until expended.

[(B) COST-SHARING.—

[(i) FEDERAL SHARE.—The Federal share of the cost of activities carried out under this subsection shall be 80 percent.

[(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal sponsor for activities under this subsection shall be credited to the non-Federal share.

[(g) RURAL TRANSPORTATION RESEARCH INITIATIVE.—

[(1) GRANTS.—For each of fiscal years 2006 through 2009, the Secretary shall provide a grant to the Upper Great Plains Transportation Institute at North Dakota State University for use in carrying out the Rural Transportation Research Initiative.

[(2) FUNDING.—

[(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $500,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, and shall remain available until expended.

[(B) COST-SHARING.—

[(i) FEDERAL SHARE.—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.

[(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal project sponsor for any activity under this subsection shall be credited to the non-Federal share.

[(h) HYDROGEN-POWERED TRANSPORTATION RESEARCH INITIATIVE.—

[(1) GRANTS.—For each of fiscal years 2006 through 2009, the Secretary shall provide a grant to the University of Montana for use in carrying out the Hydrogen-Powered Transportation Research Initiative.

[(2) FUNDING.—

[(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, and shall remain available until expended.

[(B) COST-SHARING.—

[(i) FEDERAL SHARE.—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.

[(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal project sponsor for an activity under this subsection shall be credited to the non-Federal share.

[(i) COLD REGION AND RURAL TRANSPORTATION RESEARCH, MAINTENANCE, AND OPERATIONS.—

[(1) GRANTS.—The Secretary shall provide grants to the Western Transportation Institute at Montana State University, for use in developing a research facility in Lewistown, Montana, for basic and applied research and testing on surface transportation issues facing rural and cold regions.

[(2) FUNDING.—

[(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, to remain available until expended.

[(B) COST-SHARING.—

[(i) FEDERAL SHARE.—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.

[(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal project sponsor for an activity under this section shall be credited to the non-Federal share.

[(j) ADVANCED VEHICLE TECHNOLOGY.—

[(1) GRANT.—The Secretary shall make a grant to the University of Kansas Transportation Research Institute for research and development of advanced vehicle technology concepts, focused on vehicle emissions, fuel cells and catalytic processes, and intelligent transportation systems.

[(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $2,500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

[(k) ASPHALT RESEARCH CONSORTIUM.—

[(1) GRANT.—The Secretary shall make a grant to the asphalt research consortium lead by the Western Research Institute to research flexible pavement and extending the life-cycle of asphalts.

[(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $7,500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

[(l) RENEWABLE TRANSPORTATION SYSTEMS RESEARCH.—

[(1) GRANTS.—The Secretary shall make grants to the University of Vermont for research, development and field testing of hydrogen fuel cell and biofuel transportation technology.

[(2) FUNDING.—

[(A) IN GENERAL.—Of the amounts made available for section 5101(a)(1) of this Act, $1,000,000 for fiscal year 2006 to remain available until expended.

[(B) COST-SHARING.—

[(i) FEDERAL SHARE.—The Federal Share of the cost of activities carried out under this section shall be 80 percent.

[(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal sponsor for activities under this section shall be credited to the non-Federal share.

[(m) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this section shall be 80 percent unless otherwise expressly provided by this section or otherwise determined by the Secretary.]

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TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY

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SEC. 6010. ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS.

(a) * * *

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(c) INTELLIGENT TRANSPORTATION INFRASTRUCTURE AND SYSTEMS DEFINED.—In this section, the term "intelligent transportation infrastructure and systems" means intelligent transportation infrastructure and intelligent transportation systems, as such terms are defined in [subtitle C of title V of this Act] *section 501 of title 23, United States Code*.

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TITLE 49, UNITED STATES CODE

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SUBTITLE I—DEPARTMENT OF TRANSPORTATION

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CHAPTER 1—ORGANIZATION

* * * * * * *

§ 103. Federal Railroad Administration

(a) * * *

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(l) IMPROVING REGULATION AND REGULATORY REVIEW.—

(1) IN GENERAL.—Before any final regulation within the jurisdiction of the Administration is issued, the Administrator shall make all preliminary and final determinations based on evidence and consider, in addition to other applicable considerations, the following:

(A) The legal authority under which a rule may be proposed, including whether a rulemaking is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rulemaking.

(B) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.

(C) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency's jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.

(D) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.

(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

(G) Means to increase the cost-effectiveness of any Federal response.

(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

(i) the alternative of no Federal response;

(ii) amending or rescinding existing rules;

(iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

(iv) potential responses that—

(I) specify performance objectives rather than conduct or manners of compliance;

(II) establish economic incentives to encourage desired behavior;

(III) provide information upon which choices can be made by the public; or

(IV) incorporate other innovative alternatives rather than agency actions that specify conduct or manners of compliance.

(2) PUBLIC COMMENT.—The Administrator shall solicit and take into consideration public comment on the subjects described in subparagraphs (A) through (I) of paragraph (1) before issuance of a final regulation described in paragraph (1).

(3) AGENCY STATEMENTS.—

(A) IN GENERAL.—The Administrator shall follow applicable rulemaking procedures under section 553 of title 5 before issuing a binding obligation applicable to recipients of Federal assistance.

(B) BINDING OBLIGATION DEFINED.—In this paragraph, the term "binding obligation" means a substantive policy statement, rule, or guidance document issued by the Administration that grants rights, imposes obligations, pro-

duces significant effects on private interests, or effects a significant change in existing policy.

* * * * * * *

§ 111. Bureau of Transportation Statistics

(a) * * *

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(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics and shall be responsible for carrying out the following duties:

(1) * * *

* * * * * * *

[(5) TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

[(A) productivity in various parts of the transportation sector;

[(B) traffic flows for all modes of transportation;

[(C) other elements of the intermodal transportation database established under subsection (e);

[(D) travel times and measures of congestion;

[(E) vehicle weights and other vehicle characteristics;

[(F) demographic, economic, and other variables influencing traveling behavior, including choice of transportation mode and goods movement;

[(G) transportation costs for passenger travel and goods movement;

[(H) availability and use of mass transit (including the number of passengers served by each mass transit authority) and other forms of for-hire passenger travel;

[(I) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

[(J) safety and security for travelers, vehicles, and transportation systems;

[(K) consequences of transportation for the human and natural environment;

[(L) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g); and

[(M) transportation-related variables that influence the domestic economy and global competitiveness.]

(5) TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

(A) transportation safety across all modes and intermodally;

(B) the state of good repair of United States transportation infrastructure;

(C) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g);

(D) economic efficiency across the entire transportation sector;

(E) the effects of the transportation system on global and domestic economic competitiveness;

(F) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

(G) transportation-related variables that influence the domestic economy and global competiveness;

(H) economic costs and impacts for passenger travel and freight movement;

(I) intermodal and multimodal passenger movement; and

(J) consequences of transportation for the environment.

* * * * * * *

[(d) INFORMATION NEEDS ASSESSMENT.—

[(1) IN GENERAL.—Not later than 60 days after the date of enactment of the SAFETEA-LU, the Secretary shall enter into an agreement with the National Research Council to develop and publish a National transportation information needs assessment (referred to in this subsection as the "assessment"). The assessment shall be submitted to the Secretary and the appropriate committees of Congress not later than 24 months after such agreement is entered into.

[(2) CONTENT.—The assessment shall—

[(A) identify, in order of priority, the transportation data that is not being collected by the Bureau, operating administrations of the Department, or other Federal, State, or local entities, but is needed to improve transportation decisionmaking at the Federal, State, and local levels and to fulfill the requirements of subsection (c)(5);

[(B) recommend whether the data identified in subparagraph (A) should be collected by the Bureau, other parts of the Department, or by other Federal, State, or local entities, and whether any data is of a higher priority than data currently being collected;

[(C) identify any data the Bureau or other Federal, State, or local entity is collecting that is not needed;

[(D) describe new data collection methods (including changes in surveys) and other changes the Bureau or other Federal, State, or local entity should implement to improve the standardization, accuracy, and utility of transportation data and statistics; and

[(E) estimate the cost of implementing any recommendations.

[(3) CONSULTATION.—In developing the assessment, the National Research Council shall consult with the Department's Advisory Council on Transportation Statistics and a representative cross-section of transportation community stakeholders as well as other Federal agencies, including the Environmental Protection Agency, the Department of Energy, and the Department of Housing and Urban Development.

[(4) REPORT TO CONGRESS.—Not later than 180 days after the date on which the National Research Council submits the assessment under paragraph (1), the Secretary shall submit a report to Congress that describes—

[(A) how the Department plans to fill the data gaps identified under paragraph (2)(A);

[(B) how the Department plans to stop collecting data identified under paragraph (2)(C);

[(C) how the Department plans to implement improved data collection methods and other changes identified under paragraph (2)(D);

[(D) the expected costs of implementing subparagraphs (A), (B), and (C) of this paragraph;

[(E) any findings of the assessment under paragraph (1) with which the Secretary disagrees, and why; and

[(F) any proposed statutory changes needed to implement the findings of the assessment under paragraph (1).]

(d) ACCESS TO FEDERAL DATA.—In carrying out subsection (c), the Director shall be provided access to all transportation and transportation-related information and data, including safety-related data, held by an agency of the Department of Transportation and, upon written request and subject to any statutory or regulatory restrictions, to all such data held by any other Federal Government agency, that is germane to carrying out subsection (c).

* * * * * * *

(n) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the [Mass Transit] *Alternative Transportation* Account) for the purpose of reimbursing the Bureau for the expenses.

(o) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

(1) * * *

(2) FUNCTION.—The function of the advisory council established under this subsection is to—

(A) advise the Director on the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department; *and*

[(B) provide input to and review the report to Congress under subsection (d)(4); and]

[(C)] *(B)* advise the Director on methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

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§ 112. Research and Innovative Technology Administration

(a) * * *

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(f) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 through 2016, the Administrator may expend not more than 1 ½ percent of the amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration to carry out the coordination, evalua-

tion, and oversight of the programs administered by the Administration.

(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

(B) Federal laboratories; and

(C) other Federal agencies.

(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

(3) FEDERAL SHARE.—

(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

* * * * * * *

CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

Sec.
301. Leadership, consultation, and cooperation.

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SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

* * * * * * *

310. Budget justification.

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§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites

(a) * * *

* * * * * * *

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

* * * * * * *

§ 310. Budget justification

The Secretary of Transportation and the head of each modal administration of the Department of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a budget justification concurrently with the President's annual budget submission to Congress.

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CHAPTER 5—SPECIAL AUTHORITY

* * * * * * *

SUBCHAPTER II—PENALTIES

§ 521. Civil penalties

(a) * * *

(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.—

(1) NOTICE.—

(A) IN GENERAL.—If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), *31306, 31306a,* 31310(g)(1)(A), or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an

opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

* * * * * * *

(2) CIVIL PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section *31306, 31306a, or* 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding $2,500.

(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section *31306, 31306a, or* 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

(i) * * *

* * * * * * *

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), *31306, 31306a,* or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

* * * * * * *

(6) CRIMINAL PENALTIES.—

(A) IN GENERAL.—Any person who knowingly and willfully violates any provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section *31306, 31306a, or* 31502 of this title, or a regulation issued under any of those provisions shall, upon conviction, be subject for each offense to a fine not to exceed $25,000 or imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which

case the violator shall be subject, upon conviction, to a fine not to exceed $2,500.

* * * * * * *

SUBTITLE II—OTHER GOVERNMENT AGENCIES

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CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

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SUBCHAPTER III—AUTHORITY

* * * * * * *

§ 1139. Assistance to families of passengers involved in rail passenger accidents

(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

(1) designate and publicize the name and [phone number] *telephone number* of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

(2) designate an independent nonprofit organization, with experience in disasters and [post trauma communication with families] *post-trauma communication with families*, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

* * * * * * *

(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

(1) * * *

(2) BOARD ASSISTANCE.—If this section does not apply to a [railroad passenger accident] *rail passenger accident* because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

* * * * * * *

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

Chapter		Sec.
51.	Transportation of Hazardous Material	5101
52.	*Transportation Planning*	*5201*

* * * * * * *

CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL

§ 5101. Purpose

The purpose of this chapter is to protect against the risks to life, property, and the environment [that are inherent] in the transportation of hazardous material in intrastate, interstate, and foreign commerce.

§ 5102. Definitions

In this chapter—

(1) * * *

* * * * * * *

(4) "hazmat employer"—

(A) means a person—

(i) who—

(I) employs [or uses] at least 1 hazmat employee on a full time, part time, or temporary basis; or

* * * * * * *

[(13) "transports" or "transportation" means the movement of property and loading, unloading, or storage incidental to the movement.]

(13) "transports" or "transportation"—

(A) means the movement of property and loading, unloading, handling, or storage incidental to the movement;

(B) includes all activities related to—

(i) loading or unloading packaged or containerized hazardous material, such as portable tanks, cylinders, and intermediate bulk containers, onto a transport vehicle, rail car, aircraft, or vessel at its origin, during en route movement, or at its destination; or

(ii) loading or unloading a hazardous material into or from a bulk packaging with a capacity greater than 3,000 liters, such as a portable tank, cargo tank, or rail tank car, at its origin, during en route movement, or at its destination; and

(C) includes storage of a hazardous material from the time the hazardous material is loaded for purposes of movement until the hazardous material is unloaded at its destination, including during en route movement.

§ 5103. General regulatory authority

(a) * * *

(b) REGULATIONS FOR SAFE TRANSPORTATION.—(1) The Secretary shall prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The regulations—

(A) apply to a person who—

(i) * * *

* * * * * * *

(vi) certifies compliance with any requirement under this chapter; [or]

(vii) provides hazardous material transportation emergency response information services required or governed by regulations prescribed under this chapter; or

[(vii)**]** *(viii)* misrepresents whether such person is engaged in any activity under clause (i) through **[**(vi)**]** *(vii)*; and

(B) shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate**[**.**]***; and*

(C) shall govern the procedures and criteria used by the Secretary for determining the fitness of a person applying for an approval or a special permit under the regulations.

* * * * * * *

(3) Before any final regulation within the jurisdiction of the Secretary is issued, the Secretary shall make all preliminary and final determinations based on evidence and consider, in addition to other applicable considerations, the following:

(A) The legal authority under which a rule may be proposed, including whether a rulemaking is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rulemaking.

(B) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.

(C) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency's jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.

(D) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.

(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

(G) Means to increase the cost-effectiveness of any Federal response.

(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

(i) the alternative of no Federal response;

(ii) amending or rescinding existing rules;

(iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

(iv) potential responses that—

(I) specify performance objectives rather than conduct or manners of compliance;

(II) establish economic incentives to encourage desired behavior;

(III) provide information upon which choices can be made by the public; or

(IV) incorporate other innovative alternatives rather than agency actions that specify conduct or manners of compliance.

(4) The Secretary shall solicit and take into consideration public comment on the subjects described in subparagraphs (A) through (I) of paragraph (3) before issuance of a final regulation described in paragraph (3).

(5) The Secretary shall follow applicable rulemaking procedures under section 553 of title 5 before issuing a binding obligation applicable to recipients of Federal assistance. In this paragraph, the term "binding obligation" means a substantive policy statement, rule, or guidance document issued by the Secretary that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.

(6) In considering whether to incorporate by reference any publication in prescribing regulations, the Secretary shall—

(A) consider—

(i) the cost of such publication;

(ii) the broadness of its applicability;

(iii) the cost imposed on the public in acquiring such publication; and

(iv) other alternatives to incorporation by reference; and

(B) either incorporate by reference the publication or use the alternative that meets the Department of Transportation's safety objectives in the most cost-effective manner.

* * * * * * *

§ 5105. Transporting certain highly radioactive material

(a) * * *

* * * * * * *

[(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—(1) Not later than November 16, 1991, the Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations. The Secretary may require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures.

[(2) The Secretary may allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter. The inspector qualification requirements the Secretary prescribes

for an individual inspecting a motor vehicle apply to an individual conducting an inspection under this paragraph.]

(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—

(1) REQUIREMENT.—The Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations.

(2) TYPE OF INSPECTOR.—In carrying out paragraph (1), the Secretary may—

(A) require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures; or

(B) allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter.

(3) QUALIFICATION REQUIREMENTS.—An individual conducting an inspection under paragraph (2)(B) shall be in compliance with the inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle.

(4) PREEMPTION.—Each State that a motor vehicle transporting a highway-route-controlled quantity of radioactive material in commerce enters shall recognize the inspection and certification required by paragraph (1) and may not require a new inspection at an equivalent level and certification except as provided in paragraph (5).

(5) CHANGED CONDITION.—If an en route change to the condition of the cargo, the driver, the motor vehicle, or the operation of the motor vehicle invalidates the certification under paragraph (1), the State where such change is discovered may require a new inspection and certification under such paragraph.

* * * * * * *

§ 5107. Hazmat employee training requirements and grants

(a) * * *

* * * * * * *

[(e) TRAINING GRANTS.—

[(1) IN GENERAL.—Subject to the availability of funds under section 5128(c), the Secretary shall make grants under this subsection—

[(A) for training instructors to train hazmat employees; and

[(B) to the extent determined appropriate by the Secretary, for such instructors to train hazmat employees.

[(2) ELIGIBILITY.—A grant under this subsection shall be made to a nonprofit hazmat employee organization that demonstrates—

[(A) expertise in conducting a training program for hazmat employees; and

[(B) the ability to reach and involve in a training program a target population of hazmat employees.]

[(f)] *(e)* TRAINING OF CERTAIN EMPLOYEES.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness and familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.

[(g)] *(f)* RELATIONSHIP TO OTHER LAWS.—(1) * * *

(2) An action of the Secretary under subsections (a)-(d) of this section [and section 5106] is not an exercise, under section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

[(h) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.]

§ 5108. Registration

(a) * * *

* * * * * * *

(g) FEES.—(1) * * *

(2)(A) In addition to a fee established under paragraph (1) of this subsection, the Secretary shall establish and impose by regulation and collect an annual fee. Subject to subparagraph (B) of this paragraph, the fee shall [be at least $250 but not more than] *not exceed* $3,000 from each person required to file a registration statement under this section. The Secretary shall determine the amount of the fee under this paragraph on at least one of the following:

(i) * * *

* * * * * * *

(viii) the amount to be made available to carry out [sections 5108(g)(2), 5115,] *this paragraph and sections 5115* and 5116 of this title.

* * * * * * *

(D) In establishing and collecting a fee under subparagraph (A), the Secretary may not consider whether a person has or is likely to apply for a special permit or approval, nor is the Secretary authorized to establish a separate fee in order to apply for or receive a special permit or approval.

* * * * * * *

§ 5109. Motor carrier safety permits

(a) * * *

(b) APPLICABLE TRANSPORTATION.—The Secretary shall prescribe by regulation the hazardous material and amounts of hazardous material to which this section applies. However, this section shall apply at least to transportation by a motor carrier, in amounts the Secretary establishes, of—

(1) a [class A or B] *division 1.1, 1.2, or 1.3* explosive;

* * * * * * *

(f) [SHIPPER] *OFFEROR* RESPONSIBILITY.—A person offering hazardous material for motor vehicle transportation in commerce may

offer the material to a motor carrier only if the carrier has a safety permit issued under this section authorizing the transportation.

* * * * * * *

[(h) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section not later than November 16, 1991.]

* * * * * * *

§ 5116. Planning and training grants, monitoring, and review

(a) * * *

(b) TRAINING GRANTS.—(1) * * *

* * * * * * *

(4) The Secretary shall allocate amounts made available for grants under this subsection *and subsection (a)* for a fiscal year among eligible States and Indian tribes based on the needs of the States and tribes for emergency response *planning and* training. In making a decision about those needs, the Secretary shall consider—

(A) * * *

* * * * * * *

(E) other factors the Secretary decides are appropriate to carry out this subsection *and subsection (a)*.

[(c) COMPLIANCE WITH CERTAIN LAW.—The Secretary may make a grant to a State under this section in a fiscal year only if the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003).]

(c) COMPLIANCE WITH CERTAIN LAW.—The Secretary may make a grant to a State or Indian tribe under this section in a fiscal year only if—

(1) the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003); and

(2) the State or Indian tribe certifies to the Secretary that such State or Indian tribe is in compliance with section 5125(f).

* * * * * * *

(j) SUPPLEMENTAL TRAINING GRANTS.—

(1) In order to further the purposes of subsection (b), the Secretary shall, subject to the availability of [funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for] *funds and through a competitive process, make grants to national nonprofit fire service organizations for* the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

* * * * * * *

(3) Funds granted to an organization under this subsection shall only be used—

(A) to [train] *provide portable training for* instructors to conduct hazardous materials response training programs;

* * * * * * *

(4) The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to [train] *provide portable training for* instructors to conduct hazardous materials response training programs in such fiscal year that will use—

(A) * * *

* * * * * * *

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials. Such agreement also shall provide that training courses shall *comply with national consensus standards for hazardous material response and* be open to all such individuals on a nondiscriminatory basis.

* * * * * * *

(k) REPORTS.—The Secretary shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and make available to the public information on the allocation and uses of the [planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107] *grants allocated under subsections (a), (b), and (j)*. The report shall identify the ultimate recipients of *planning and* training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of *planning and* training programs carried out.

§ 5117. Special permits and exclusions

[(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—(1) As provided under procedures prescribed by regulation,]

(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

(1) IN GENERAL.—As provided under procedures and criteria prescribed by regulation in accordance with section 553 of title 5, the Secretary may issue, modify, or terminate a special permit authorizing a variance from this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title to a person performing a function regulated by the Secretary under section 5103(b)(1) in a way that achieves a safety level—

(A) * * *

* * * * * * *

(2) REQUIREMENTS.—The Secretary shall ensure that the procedures and criteria prescribed under paragraph (1) provide adequate consistency, predictability, and transparency in making the determinations to issue, modify, or terminate a special permit.

[(2) A special permit]

(3) EFFECTIVE PERIOD.—A special permit issued under this section shall be effective for an initial period of not more than

2 years and may be renewed by the Secretary upon application for successive periods of not more than 4 years each or, in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

* * * * * * *

(f) LIMITATION ON DENIAL.—The Secretary may not deny an application for a modification or renewal of a special permit or an application for party status to an existing special permit for the sole reason that the applicant has a hazardous material out-of-service percentage of greater than the national average, according to the safety and fitness records maintained by the Federal Motor Carrier Safety Administration.

(g) INCORPORATION INTO REGULATION.—

(1) IN GENERAL.—Not later than 1 year after the date on which a special permit has been in continuous effect for a 6-year period, the Secretary shall develop and implement a rulemaking pursuant to section 5103 to incorporate the special permit into regulation if the special permit—

(A) concerns a matter of general applicability;

(B) has future effect; and

(C) is consistent with hazardous material safety.

(2) INTENT.—Nothing in paragraph (1) limits the Secretary from incorporating a special permit into regulation at any time before the deadline set by paragraph (1).

(3) OLDER SPECIAL PERMITS.—Not later than 3 years after the date of enactment of this subsection, the Secretary shall finalize a rulemaking pursuant to section 5103 to incorporate into regulation any special permit that concerns a matter of general applicability, has future effect, is consistent with hazardous material safety, and has been in continuous effect for more than a 6-year period as of the date of enactment of this subsection.

* * * * * * *

§ 5119. Uniform forms and procedures

[(a) ESTABLISHMENT OF WORKING GROUP.—The Secretary shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.

[(b) PURPOSE OF WORKING GROUP.—The purpose of the working group shall be to develop uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.

[(c) LIMITATION ON WORKING GROUP.—The working group may not propose to define or limit the amount of a fee a State may impose or collect.

[(d) PROCEDURE.—The Secretary shall develop a procedure for the working group to employ in developing recommendations for the Secretary to harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous materials, with special attention paid to each State's unique safety

concerns and interest in maintaining strong hazmat safety standards.

[(e) REPORT OF WORKING GROUP.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).

[(f) REGULATIONS.—Not later than 18 months after the date the working group's report is delivered to the Secretary, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate. In developing such regulations, the Secretary shall consider the State needs associated with the transition to and implementation of a uniform forms and procedures program.

[(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).]

(a) UNIFORM MOTOR CARRIER PERMIT PROGRAM DEFINED.—In this section, the term "Uniform Motor Carrier Permit Program" means the State-based, reciprocal program of uniform forms and procedures for registering and permitting persons who transport hazardous material by motor vehicle developed and recommended by the Alliance for Uniform Hazmat Transportation Procedures, including any superseding amendments or revisions adopted by the Secretary pursuant to subsection (b).

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012, the Secretary shall issue regulations to implement the Uniform Motor Carrier Permit Program.

(2) REVISIONS.—The Secretary may modify the regulations issued under paragraph (1) only as necessary to promote safety, efficiency, and uniformity.

(c) FINANCIAL AND TECHNICAL ASSISTANCE AND SUPPORT.—

(1) IN GENERAL.—The Secretary may provide planning and transition assistance to States to facilitate the adoption of the Uniform Motor Carrier Permit Program.

(2) USE OF FUNDS.—A State shall use assistance awarded under this subsection only to transition existing State registration and permitting programs to the Uniform Motor Carrier Permit Program.

(3) TERMINATION OF AUTHORITY.—The authority to provide assistance to States under this subsection shall terminate 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012.

(d) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement for outreach, data management, and other centralized functions supporting implementation of the Uniform Motor Carrier Permit Program.

(e) RELATED EXPENSES.—For purposes of section 5125(f)(1), a fee used for a purpose related to transporting hazardous material may include the costs incurred in implementing and administering the

Uniform Motor Carrier Permit Program, including the costs of establishing or modifying forms, procedures, and systems.

(f) TRANSITION OF STATE PROGRAMS.—Not later than 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012, a State may enforce registration and permitting requirements for motor carriers that transport hazardous material in commerce only in accordance with the Uniform Motor Carrier Permit Program.

(g) LIMITATION.—Nothing in this section shall define or limit the amount of a fee a State may impose or collect for registration and permitting.

§ 5120. International uniformity of standards and requirements

(a) PARTICIPATION IN INTERNATIONAL FORUMS.—Subject to guidance and direction from the Secretary of [State, the Secretary of Transportation shall participate] *State and the Secretary of Transportation, the Administrator of the Pipelines and Hazardous Materials Safety Administration, or the Administrator's designee, shall represent the United States and serve as the United States competent authority* in international forums that establish or recommend mandatory standards and requirements for transporting hazardous material in international commerce.

(b) CONSULTATION.—[The Secretary] *The Administrator* may consult with interested authorities to ensure that, to the extent practicable, regulations the Secretary prescribes under [sections 5103(b), 5104, 5110, and 5112 of this title] *this chapter* are consistent with standards and requirements related to transporting hazardous material that international authorities adopt.

* * * * * * *

§ 5121. Administrative

(a) * * *

* * * * * * *

(c) INSPECTIONS AND INVESTIGATIONS.—

(1) IN GENERAL.—A designated officer, employee, or agent of the Secretary—

(A) * * *

(B) except in the case of packaging immediately adjacent to its hazardous material contents, may gain access to, open, and examine a package offered for, or in, transportation when the officer, employee, or agent has an objectively reasonable and articulable belief that the package [may contain a hazardous material;] *may contain an undeclared hazardous material and such activity takes place at a properly equipped facility designated by the Secretary for this purpose;*

(C) may remove from transportation a package [or related packages] *suspected of containing undeclared hazardous material* in a shipment offered for or in transportation for which—

(i) * * *

* * * * * * *

(E) as necessary, under terms and conditions specified by the Secretary, [may order the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis; and] *may order the offeror, after giving notice to the carrier, to have the package transported to, opened, and the contents examined and analyzed at a properly equipped facility designated by the Secretary for this purpose;*

(F) when safety might otherwise be compromised, may authorize properly qualified personnel to assist in the activities conducted under this subsection[.]*; and*

(G) shall provide contemporaneous notice to the affected offeror and carrier of its decision to exercise its authority under subparagraph (B), (C), (D), or (E).

* * * * * * *

[(e) REGULATIONS.—

[(1) TEMPORARY REGULATIONS.—Not later than 60 days after the date of enactment of the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, the Secretary shall issue temporary regulations to carry out subsections (c) and (d). The temporary regulations shall expire on the date of issuance of the regulations under paragraph (2).

[(2) FINAL REGULATIONS.—Not later than 1 year after such date of enactment, the Secretary shall issue regulations to carry out subsections (c) and (d) in accordance with subchapter II of chapter 5 of title 5.]

(e) REGULATIONS.—To carry out subsections (c) and (d), the Secretary shall issue regulations in accordance with section 553 of title 5 that address, at a minimum, the following:

(1) Avoidance of delay in the transportation of time-sensitive materials, such as medical products, perishables, and other packages that are not the subject of the inspection.

(2) Appropriate training and equipment for inspectors.

(3) Restoration of the properly certified status of the inspected package before resumption of transportation of that package.

(4) Consideration of the costs and damages that might occur as a result of an inspection.

* * * * * * *

(g) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may enter into grants and cooperative agreements with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

(1) * * *

* * * * * * *

(3) to conduct research, development, demonstration, risk assessment, and emergency response planning and training activities; [or]

(4) to work with State enforcement personnel with information and training relating to the uniform enforcement of the

regulations governing the transportation of hazardous material; or

[(4)] *(5)* to otherwise carry out this chapter.

(h) *BIENNIAL* REPORT.—The Secretary shall, once every 2 years, prepare and transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a comprehensive report on the transportation of hazardous [materials during] *material in all modes of transportation during* the preceding 2 calendar years. The report shall include—

(1) * * *

(2) a summary of the hazardous material transported during the period covered by the report, set forth by the type and quantity of hazardous material and by mode;

[(2)] *(3)* a list and summary of applicable Government regulations, criteria, orders, and special permits;

[(3)] *(4)* a summary of the basis for each special [permit] *permit issued*;

[(4)] *(5)* an evaluation of the effectiveness of enforcement [activities] *activities, including activities conducted under subsections (c) and (d),* relating to a function regulated by the Secretary under section 5103(b)(1) and the degree of voluntary compliance with regulations;

[(5)] *(6)* a summary of outstanding problems in carrying out this chapter in order of priority; and

[(6)] *(7)* recommendations for [appropriate legislation] *legislative action that the Secretary considers appropriate*.

* * * * * * *

§ 5123. Civil penalty

(a) PENALTY.—(1) A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of [at least $250 but] not more than $50,000 for each violation. A person acts knowingly when—

(A) * * *

* * * * * * *

[(3) If the violation is related to training, paragraph (1) shall be applied by substituting "$450" for "$250".]

[(4)] *(3)* A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues.

(4) A carrier shall not be liable for violations of this chapter, or a regulation issued under this chapter, stemming from pre-transportation functions, as defined in section 171.1 of title 49, Code of Federal Regulations, that are performed by another person unless the carrier has actual knowledge of a violation.

* * * * * * *

(h) PENALTY FOR FAILURE TO MAINTAIN RECORDS, REPORTS, AND INFORMATION.—The Secretary may impose a penalty on a person who fails to comply with section 5121(b).

* * * * * * *

§ 5125. Preemption

(a) GENERAL.—Except as provided in subsections (b), (c), and (e) of this section and unless authorized by another law of the United States, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security is not possible; **[**or**]**

(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security**[**.**]***; or*

(3) the requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an unreasonable burden on commerce.

(b) SUBSTANTIVE DIFFERENCES.—(1) Except as provided in subsection (c) of this section and unless authorized by another law of the United States, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security, is preempted:

(A) * * *

* * * * * * *

(D) the **[**written**]** notification, recording, and reporting of the unintentional release in transportation of hazardous material.

* * * * * * *

(c) COMPLIANCE WITH SECTION 5112(B) REGULATIONS.—(1) Except as provided in paragraph (2) of this subsection, after the last day of the 2-year period beginning on the date a regulation is prescribed under section 5112(b) of this title, a State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies with section 5112(b)**[**.**]** *and is published in the Department's hazardous material route registry under section 5112(c).*

* * * * * * *

(d) DECISIONS ON PREEMPTION.—(1) A person (including a State, political subdivision of a State, or Indian tribe) directly affected by a requirement of a State, political subdivision, or tribe may apply to the Secretary, as provided by regulations prescribed by the Secretary, for a decision on whether the requirement is preempted by subsection (a), (b)(1), or (c) of this section **[**or section 5119(f)**]**. The Secretary shall publish notice of the application in the Federal Register. The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of

the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made. After notice is published, an applicant may not seek judicial relief on the same or substantially the same issue until the Secretary takes final action on the application or until 180 days after the application is filed, whichever occurs first.

* * * * * * *

(e) WAIVER OF PREEMPTION.—A State, political subdivision of a State, or Indian tribe may apply to the Secretary for a waiver of preemption of a requirement the State, political subdivision, or tribe acknowledges is preempted by subsection (a), (b)(1), or (c) of this section [or section 5119(f)]. Under a procedure the Secretary prescribes by regulation, the Secretary may waive preemption on deciding the requirement—

(1) * * *

* * * * * * *

(f) FEES.—(1) * * *

(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall[, upon the Secretary's request,] *biennially* report to the Secretary on—

(A) * * *

* * * * * * *

(g) APPLICATION OF EACH PREEMPTION STANDARD.—Each standard for preemption in subsection (a), (b)(1), or (c)[, and in section 5119(f),] is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

[(h) NON-FEDERAL ENFORCEMENT STANDARDS.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.]

* * * * * * *

[§ 5128. Authorization of appropriations

[(a) IN GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

[(1) For fiscal year 2005, $24,940,000.

[(2) For fiscal year 2006, $29,000,000.

[(3) For fiscal year 2007, $30,000,000.

[(4) For fiscal year 2008, $30,000,000.

[(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), for each of fiscal years 2005 through 2008 the following:

[(1) To carry out section 5115, $200,000.

[(2) To carry out sections 5116(a) and (b), $21,800,000 to be allocated as follows:

[(A) $5,000,000 to carry out section 5116(a).

[(B) $7,800,000 to carry out section 5116(b).

[(C) Of the amount provided for by this paragraph for a fiscal year in excess of the suballocations in subparagraphs (A) and (B)—

[(i) 35 percent shall be used to carry out section 5116(a); and

[(ii) 65 percent shall be used to carry out section 5116(b),

except that the Secretary may increase the proportion to carry out section 5116(b) and decrease the proportion to carry out section 5116(a) if the Secretary determines that such reallocation is appropriate to carry out the intended uses of these funds as described in the applications submitted by States and Indian tribes.

[(3) To carry out section 5116(f), $150,000.

[(4) To publish and distribute the Emergency Response Guidebook under section 5116(i)(3), $625,000.

[(5) To carry out section 5116(j), $1,000,000.

[(c) HAZMAT TRAINING GRANTS.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), to carry out section 5107(e) $4,000,000 for each of fiscal years 2005 through 2008.

[(d) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated for the Department of Transportation such amounts as may be necessary to carry out section 5103a.

[(e) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

[(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section remain available until expended.]

§ 5128. Authorization of appropriations

(a) IN GENERAL.—In order to carry out this chapter (except sections 5108(g)(2), 5113, 5115, 5116, and 5119), there are authorized to be appropriated to the Secretary $39,000,000 for each of fiscal years 2012 through 2016.

(b) HAZARDOUS MATERIAL EMERGENCY PREPAREDNESS FUND.—For each of the fiscal years 2012 through 2016, there shall be available to the Secretary, from the account established pursuant to section 5116(i), the following:

(1) To carry out section 5115, $188,000.

(2) To carry out subsections (a) and (b) of section 5116, $21,800,000.

(3) To carry out section 5116(f), $150,000.

(4) To publish and distribute the Emergency Response Guidebook under section 5116(j)(3), $625,000.

(5) To carry out section 5116(j), $1,000,000.

(c) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated to the Secretary such amounts as may be necessary to carry out section 5103a.

(d) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity

for expenses the Secretary incurs in providing training to the State, tribe, authority, or entity.

(e) UNIFORM FORMS AND PROCEDURES.—There are authorized to be appropriated to the Secretary $1,000,000 to carry out section 5119. This amount shall remain available to be expended by the Secretary for the 6-year period that begins on the date of enactment of this section.

(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section, except for the amount under subsection (e), shall remain available until expended.

CHAPTER 52—TRANSPORTATION PLANNING

Sec.
5201. Policy.
5202. Definitions.
5203. Metropolitan transportation planning.
5204. Statewide transportation planning.
5205. National strategic transportation plan.
5206. National performance management system.

§ 5201. Policy

(a) IN GENERAL.—It is in the national interest to—

(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transportation operators as guided by the planning factors identified in sections 5203(f) and 5204(d).

(b) COMMON TRANSPORTATION PLANNING PROGRAM.—This chapter provides a common transportation planning program to be administered by the Federal Highway Administration and the Federal Transit Administration.

§ 5202. Definitions

In this chapter, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term "metropolitan planning area" means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under section 5203(c).

(2) METROPOLITAN LONG-RANGE TRANSPORTATION PLAN.—The term "metropolitan long-range transportation plan" means a long-range transportation plan developed by an MPO under section 5203 for a metropolitan planning area.

(3) METROPOLITAN PLANNING ORGANIZATION; MPO.—The term "metropolitan planning organization" or "MPO" means the policy board of an organization created as a result of the designation process in section 5203(b).

(4) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM; METROPOLITAN TIP.—The term "metropolitan transportation improvement program" or "metropolitan TIP" means a transportation improvement program developed by an MPO under section 5203 for a metropolitan planning area.

(5) NONMETROPOLITAN AREA.—The term "nonmetropolitan area" means a geographic area outside designated metropolitan planning areas.

(6) NONMETROPOLITAN LOCAL OFFICIAL.—The term "nonmetropolitan local official" means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(7) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term "regional transportation planning organization" means a policy board of an organization created as the result of a designation under section 5204(k).

(8) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(9) STATE.—The term "State" means any of the 50 States, the District of Columbia, or Puerto Rico.

(10) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—The term "statewide strategic long-range transportation plan" means a strategic long-range transportation plan developed by a State under section 5204 for all areas of the State.

(11) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM; STATEWIDE TIP.—The term "statewide transportation improvement program" or "statewide TIP" means a transportation improvement program developed by a State under section 5204 for all areas of the State.

(12) URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

§ 5203. Metropolitan transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF METROPOLITAN LONG-RANGE PLANS AND TIPS.—To accomplish the objectives set forth in section 5201, metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transportation operators, shall develop metropolitan long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

(2) CONTENTS.—Metropolitan long-range transportation plans and TIPs shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan long-range transportation plans and TIPs shall provide for consideration of all modes of transportation and

shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) DESIGNATION OF MPOS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, an MPO shall be designated for an urbanized area with a population of more than 100,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—An MPO that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

(C) appropriate State officials.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

(A) develop metropolitan long-range transportation plans or TIPs for adoption by an MPO; and

(B) develop long-range capital plans, coordinate public transportation services or projects, or carry out other activities pursuant to State law.

(4) CONTINUING DESIGNATION.—A designation of an MPO under this subsection or any other provision of law shall remain in effect until the MPO is redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government that together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

(5) REDESIGNATION PROCEDURES.—An MPO may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

(6) DESIGNATION OF MULTIPLE MPOS.—More than 1 MPO may be designated within an existing metropolitan planning area only if the Governor and the existing MPO determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 MPO for the area appropriate.

(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the MPO and the Governor.

(2) INCLUDED AREA.—A metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan long-range transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing MPO.

(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of August 10, 2005, the boundaries of the metropolitan planning area in existence as of such date shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected MPOs in the manner described in subsection (b)(5).

(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after August 10, 2005, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (b)(1);

(B) shall encompass the areas described in subsection (c)(2)(A);

(C) may encompass the areas described in subsection (c)(2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

(d) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage a Governor with responsibility for a portion of a multistate metropolitan area and the appropriate MPOs to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(e) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than 1 MPO has authority within a metropolitan area or an area that is designated as a nonattainment area for ozone or carbon monoxide under

the Clean Air Act, each MPO shall consult with the other MPOs designated for such area and the State in the coordination of metropolitan long-range transportation plans and TIPs.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN AREAS REPRESENTED BY MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of this title, is located within the boundaries of more than 1 metropolitan planning area, the MPOs shall coordinate metropolitan long-range transportation plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage an MPO to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, metropolitan long-range transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(A) recipients of assistance under chapter 53;

(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(C) recipients of assistance under sections 202 and 203 of title 23.

(f) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation, including through the use of intelligent transportation systems;

(H) emphasize the preservation of the existing transportation system; and

(I) support intermodal facilities or facilitate regional growth.

(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, chapter 53 of this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan long-range transportation plan or TIP, a project or strategy, or the certification of a planning process.

(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

(1) IN GENERAL.—

(A) EXISTING AND FORMER NONATTAINMENT AREAS.—An MPO shall prepare and update a metropolitan long-range transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The MPO shall prepare and update the plan every 4 years (or more frequently, if the MPO elects to update more frequently) in the case of each of the following:

(i) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(ii) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

(B) OTHER AREAS.—In the case of any other area required to have a metropolitan long-range transportation plan, the MPO shall prepare and update the plan every 5 years unless the MPO elects to update more frequently.

(2) LONG-RANGE TRANSPORTATION PLAN.—A metropolitan long-range transportation plan shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the plan, the MPO shall consider factors described in subsection (f) and other relevant data and factors disseminated by the Secretary pursuant to section 5205(b) as such factors relate to a 20-year forecast period.

(B) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A metropolitan long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(C) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted metropolitan long-range transportation plan can be implemented;

(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the metropolitan long-range transportation plan;

(III) recommends any additional financing strategies for needed projects and programs; and

(IV) may include, for illustrative purposes, additional projects that would be included in the adopted metropolitan long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(ii) ESTIMATES OF FUNDS.—For the purpose of developing the metropolitan long-range transportation plan, the MPO, public transportation operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

(3) INTERCITY BUS.—A metropolitan long-range transportation plan shall consider the role intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(4) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the MPO shall coordinate the development of a metropolitan long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

(5) CONSULTATION; COMPARISONS.—

(A) CONSULTATION.—A metropolitan long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

(B) COMPARISONS.—Consultation under subparagraph (A) shall involve, as appropriate, a comparison of the metropolitan long-range transportation plan—

(i) to State conservation plans and maps, if available; and

(ii) to inventories of natural and historic resources, if available.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—An MPO shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, including intercity bus services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on its metropolitan long-range transportation plan.

(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan shall—

(i) be developed in consultation with all interested parties; and

(ii) provide that all interested parties have reasonable opportunities to comment on the contents of the metropolitan long-range transportation plan.

(C) METHODS.—In carrying out subparagraph (A), the MPO shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the Internet, as appropriate to afford a reasonable opportunity for consideration of public information under subparagraph (A).

(7) PUBLICATION.—A metropolitan long-range transportation plan involving Federal participation shall be published or otherwise made readily available by the MPO for public review (including to the maximum extent practicable in electronically accessible formats and means, such as the Internet) approved by the MPO, and submitted for information purposes to the Governor, at such times and in such manner as the Secretary shall establish.

(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or MPO shall not be required to select any project from the illustrative list of additional projects included in the financial plan under such paragraph.

(h) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the MPO designated for a metropolitan area shall develop a metropoli-

tan TIP for the area for which the organization is designated.

(B) OPPORTUNITY FOR COMMENT.—In developing the metropolitan TIP, the MPO, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (g)(6).

(C) FUNDING ESTIMATES.—For the purpose of developing the metropolitan TIP, the MPO, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The metropolitan TIP shall be updated at least once every 4 years and shall be approved by the MPO and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The metropolitan TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the metropolitan TIP.

(B) FINANCIAL PLAN.—The metropolitan TIP shall include a financial plan that—

(i) demonstrates how the metropolitan TIP can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the metropolitan TIP;

(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

(iv) may include, for illustrative purposes, additional projects that would be included in the approved metropolitan TIP if reasonable additional resources beyond those identified in the financial plan were available.

(C) DESCRIPTIONS.—A project in the metropolitan TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER TITLE 23 AND CHAPTER 53 OF THIS TITLE.—A metropolitan TIP for an area shall include the projects within the area that are proposed for funding under chapter 1 of title 23 and chapter 53 of this title.

(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan TIP.

(ii) OTHER PROJECTS.—Projects proposed for funding under such chapter that are not determined to be regionally significant shall be grouped in one line item or identified individually in the metropolitan TIP.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—A project shall be consistent with the metropolitan long-range transportation plan for the area.

(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or the identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

(E) TIP MODIFICATIONS BY GOVERNOR.—

(i) IN GENERAL.—Notwithstanding any other provisions of this section or section 5204, if a State and an MPO fail to agree on programming a project of statewide significance on the Interstate System (as defined in section 101(a) of title 23) into a metropolitan TIP, the Governor may modify the metropolitan TIP to add the project without approval or endorsement by the MPO.

(ii) CONFORMING AMENDMENTS TO METROPOLITAN LONG-RANGE TRANSPORTATION PLAN.—If the Governor modifies a metropolitan TIP under clause (i), the MPO shall amend its metropolitan long-range transportation plan to be consistent with the modified metropolitan TIP.

(4) NOTICE AND COMMENT.—Before approving a metropolitan TIP, an MPO, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (g)(5).

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the metropolitan TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out from the approved metropolitan TIP—

(i) by—

(I) in the case of projects under title 23, the State; and

(II) in the case of projects under chapter 53, the designated recipients of public transportation funding; and

(ii) in cooperation with the MPO.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved metropolitan TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or MPO shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or MPO to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved metropolitan TIP.

(7) PUBLICATION.—

(A) PUBLICATION OF TIPS.—A metropolitan TIP involving Federal participation shall be published or otherwise made readily available, including on the Internet, by the MPO for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects (including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) for which Federal funds have been obligated in the preceding year shall be published or otherwise made available, including on the Internet, by the cooperative effort of the State, public transportation operator, and MPO for public review. The listing shall be consistent with the categories identified in the metropolitan TIP.

(i) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the MPO designated for the area.

(2) LONG-RANGE TRANSPORTATION PLANS.—In a transportation management area, metropolitan long-range transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the MPO in cooperation with the State and public transportation operators.

(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 of this title through the use of travel demand reduction, intelligent transportation systems, and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but not sooner than 1 year after the identification of a transportation management area.

(4) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System under such title) or under chapter 53 of this title shall be selected for implementation from the approved metropolitan TIP by the MPO designated for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning

area serving a transportation management area on the National Highway System under title 23 shall be selected for implementation from the approved metropolitan TIP by the State in cooperation with the MPO designated for the area.

(5) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of an MPO serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

(ii) there is a metropolitan TIP for the metropolitan planning area that has been approved by the MPO and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF PROJECT FUNDS.—If the metropolitan planning process of an MPO serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the MPO for projects funded under title 23 and chapter 53 of this title.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan long-range transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provision of title 23, this chapter, or chapter 53 of this title, for transportation

management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

(l) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to confer on an MPO the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53 of this title.

(m) FUNDING.—Funds set aside under section 104(f) of title 23 or section 5305(g) of this title shall be available to carry out this section.

(n) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since metropolitan long-range transportation plans and TIPs are subject to a reasonable opportunity for public comment, since individual projects included in such plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning such plans and TIPs have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning such plans and TIPs shall not be considered to be a Federal action subject to review under that Act.

§ 5204. Statewide transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5201, a State shall develop a statewide strategic long-range transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 5203.

(2) CONTENTS.—Statewide strategic long-range transportation plans and TIPs shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing statewide strategic long-range transportation plans and TIPs shall provide for consideration of all modes of transportation and the policies stated in section 5201, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5203 for metropolitan areas of the State and with statewide

trade and economic development planning activities and related multistate planning efforts; and

(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) INTERSTATE AGREEMENTS.—

(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(d) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—A State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

(G) promote efficient system management and operation, including through the use of intelligent transportation systems; and

(H) emphasize the preservation of the existing transportation system.

(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, chapter 53 of this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide strategic long-range transportation plan or TIP, a project or strategy, or the certification of a planning process.

(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, a State shall, at a minimum—

(1) with respect to nonmetropolitan areas, cooperate with affected nonmetropolitan local officials or, if applicable, through

regional transportation planning organizations described in subsection (k);

(2) consider the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

(3) coordinate statewide long-range transportation plans and TIPs and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

(f) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—A State shall develop a statewide strategic long-range transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal interconnected transportation system of the State.

(B) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN REQUIREMENTS.—

(i) NATIONAL TRANSPORTATION STATISTICS.—In developing a statewide strategic long-range transportation plan, the State shall consider the data and factors disseminated by the Secretary pursuant to section 5205(b) for that particular State.

(ii) TRANSPORTATION PROJECTS THAT ARE OF STATEWIDE, REGIONAL, AND NATIONAL IMPORTANCE.—The State shall identify transportation projects across all modes of transportation in the State that have statewide, regional, and national significance. In identifying these projects, the State shall consider the factors described in section 5205(b).

(iii) STATES WITH CONGESTED AIRPORTS.—If a State has an airport in its jurisdiction that had at least 1 percent of all delayed aircraft operations in the United States, as identified by the Federal Aviation Administration's Airport Capacity Benchmark Report, the statewide strategic long-range transportation plan shall include measures to alleviate congestion at that airport either through expansion or the development of additional facilities.

(iv) STATES WITH CONGESTED FREIGHT RAIL CORRIDORS.—If data from the Department of Transportation and the freight railroad industry project that a State has freight railroad corridors that operate at levels of service that are at or exceed capacity, the statewide strategic long-range transportation plan shall include measures by which the State department of transportation and the freight railroads provide relief for the congested corridors.

(v) STATES WITH DEEP DRAFT PORTS.—If a State has a deep draft port, the statewide strategic long-range transportation plan shall take into account any plan for expansion at that port and any projected increase in shipping traffic at that port.

(vi) STATES WITH NAVIGABLE INLAND WATERWAYS.—A State that has navigable inland waterways shall in-

clude in its statewide strategic long-range transportation plan any plans to use those waterways to facilitate the efficient and reliable transportation of freight and people.

(vii) PROJECT INTERCONNECTIVITY.—In developing a statewide strategic long-range transportation plan, the State shall ensure interconnectivity for freight and passengers between different facilities and between different modes of transportation.

(viii) COST ESTIMATES FOR PROJECTS THAT ARE OF STATEWIDE, REGIONAL, AND NATIONAL IMPORTANCE.—In developing the statewide strategic long-range transportation plan, the State shall include estimates of the costs of each of the projects identified in clause (ii).

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—The statewide strategic long-range transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5203.

(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide strategic long-range transportation plan shall be developed in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

(C) INDIAN TRIBAL AREAS.—With respect to an area of the State under the jurisdiction of an Indian tribal government, the statewide strategic long-range transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

(D) CONSULTATION; COMPARISONS.—

(i) CONSULTATION.—A statewide strategic long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, regional, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

(ii) COMPARISONS.—Consultation under clause (i) shall involve, as appropriate, comparison of statewide strategic long-range transportation plans—

(I) to State and tribal conservation plans and maps, if available; and

(II) to inventories of natural and historic resources, if available.

(3) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—The State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, including intercity bus services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a

reasonable opportunity to comment on the statewide strategic long-range transportation plan.

(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the Internet, as appropriate to afford a reasonable opportunity for consideration of public information under subparagraph (A).

(4) MITIGATION ACTIVITIES.—

(A) IN GENERAL.—A statewide strategic long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(5) FINANCIAL PLAN.—The statewide strategic long-range transportation plan may include a financial plan that—

(A) demonstrates how the adopted statewide strategic long-range transportation plan can be implemented;

(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the statewide strategic long-range transportation plan;

(C) recommends any additional financing strategies for needed projects and programs; and

(D) may include, for illustrative purposes, additional projects that would be included in the adopted statewide strategic long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

(7) EXISTING SYSTEM.—A statewide strategic long-range transportation plan should include capital, operations, and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

(8) INTERCITY BUS.—A statewide strategic long-range transportation plan shall consider the role intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(9) PUBLICATION OF STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—A statewide strategic long-range transportation plan prepared by a State shall be published or

otherwise made available, including to the maximum extent practicable in electronically accessible formats and means, such as the Internet.

(g) STATEWIDE TIP.—

(1) DEVELOPMENT.—A State shall develop a statewide TIP for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—With respect to a metropolitan area in the State, the program shall be developed in cooperation with the MPO designated for the metropolitan area under section 5203.

(B) NONMETROPOLITAN AREAS.—With respect to a nonmetropolitan area in the State, the program shall be developed in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

(C) INDIAN TRIBAL AREAS.—With respect to an area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

(4) INCLUDED PROJECTS.—

(A) IN GENERAL.—A statewide TIP developed for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and the MPO for public review. The listing shall be consistent with the funding categories identified in each metropolitan TIP.

(C) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the statewide TIP.

(ii) OTHER PROJECTS.—Projects proposed for funding under such chapter that are not determined to be regionally significant shall be grouped in one line item or identified individually in the statewide TIP.

(D) CONSISTENCY WITH STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—A project shall be—

(i) consistent with the statewide strategic long-range transportation plan developed under this section for the State;

(ii) identical to the project or phase of the project as described in an approved metropolitan long-range transportation plan;

(iii) identical to the project or phase of the project as described in a metropolitan TIP approved by the Governor; and

(iv) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under that Act.

(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The statewide TIP shall include a project, or the identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

(F) FINANCIAL PLAN.—The statewide TIP may include a financial plan that—

(i) demonstrates how the approved statewide TIP can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the statewide TIP;

(iii) recommends any additional financing strategies for needed projects and programs; and

(iv) may include, for illustrative purposes, additional projects that would be included in the adopted statewide TIP if reasonable additional resources beyond those identified in the financial plan were available.

(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

(ii) REQUIRED ACTION BY THE SECRETARY.—An action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved statewide TIP.

(H) PRIORITIES.—The statewide TIP shall reflect the priorities for programming and expenditures of funds required by title 23, this chapter, and chapter 53 of this title.

(5) PROJECT SELECTION FOR AREAS WITHOUT MPOS.—

(A) IN GENERAL.—Except as provided by subparagraph (B), projects carried out in areas without a designated MPO shall be selected from the approved statewide TIP by the State in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

(B) NHS PROJECTS.—Projects carried out on the National Highway System under title 23 or under sections 5311 and 5317 of this title in areas without a designated MPO shall be selected from the approved statewide TIP by the State in consultation with affected nonmetropolitan local officials.

(6) TIP APPROVAL.—Every 4 years, a statewide TIP shall be reviewed and approved by the Secretary if based on a current planning finding.

(7) PLANNING FINDING.—A finding shall be made by the Secretary at least once every 4 years that the transportation planning process through which statewide strategic long-range transportation plans and TIPs are developed is consistent with this section and section 5203.

(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide TIP in place of another project in the program.

(h) FUNDING.—Funds set aside pursuant to sections 104(f) and 505 of title 23 and section 5305(g) of this title shall be available to carry out this section.

(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5203, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5203 if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 5203, as appropriate.

(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since statewide strategic long-range transportation plans and TIPs are subject to a reasonable opportunity for public comment, individual projects included in such plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and decisions by the Secretary concerning such plans and TIPs have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning such plans and TIPS shall not be considered to be a Federal action subject to review under that Act.

(k) DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and TIPs, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

(2) STRUCTURE.—A regional transportation planning organization shall be established as a multi-jurisdictional organization of volunteers from nonmetropolitan local officials or their designees and representatives of local transportation systems.

(3) REQUIREMENTS.—A regional transportation planning organization shall establish, at a minimum—

(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees,

and which shall also include, as appropriate, additional representatives from the State, private business, transportation service providers, economic development practitioners, and the public in the region; and

(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to provide professional planning, management, and administrative support.

(4) DUTIES.—The duties of a regional transportation planning organization shall include—

(A) developing and maintaining, in cooperation with the State, regional long-range multimodal transportation plans;

(B) developing a regional transportation improvement program for consideration by the State;

(C) fostering the coordination of local planning, land use, and economic development plans with State, regional, and local transportation plans and programs;

(D) providing technical assistance to local officials;

(E) participating in national, multistate, and State policy and planning development processes to ensure the regional and local input of nonmetropolitan areas;

(F) providing a forum for public participation in the statewide and regional transportation planning processes;

(G) considering and sharing plans and programs with neighboring regional transportation planning organizations, MPOs, and, where appropriate, tribal organizations; and

(H) conducting other duties, as necessary, to support and enhance the statewide planning process under subsection (d).

(5) STATES WITHOUT REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—If a State chooses not to establish or designate a regional transportation planning organization, the State shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.

§ 5205. National strategic transportation plan

(a) DEVELOPMENT OF NATIONAL STRATEGIC TRANSPORTATION PLAN.—

(1) DEVELOPMENT OF PLAN.—

(A) IN GENERAL.—The Secretary, in consultation with State departments of transportation, shall develop a national strategic transportation plan (in this section referred to as the "national plan") in accordance with the requirements of this section.

(B) SOLICITATION.—Not later than 30 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a solicitation requesting each State department of transportation to submit to the Secretary, not later than 90 days after such date of enactment, a list of projects that the State recommends for inclusion in the national plan.

(C) STATE SELECTION OF PROJECTS.—In selecting projects under subparagraph (B), a State department of transpor-

tation shall consider the elements of the national plan described in paragraph (2).

(D) FAILURE TO SUBMIT RECOMMENDATIONS.—If a State does not submit a list of recommended projects in accordance with this paragraph, the Secretary shall select projects in the State that will be considered for inclusion in the national plan.

(E) SELECTION OF PROJECTS.—Not later than 60 days after the date on which the Secretary receives a list of recommended projects from a State department of transportation under this paragraph, the Secretary shall review the list and select projects from the list for inclusion in the national plan.

(F) BASIS FOR SELECTION.—In selecting projects for inclusion in the national plan, the Secretary shall consider, at a minimum—

(i) the projects recommended by State departments of transportation under this paragraph;

(ii) the ability of projects to improve mobility by increasing transportation options for passengers and freight;

(iii) the degree to which projects create intermodal links between different modes of transportation, including passenger and freight rail, public transportation, intercity bus, airports, seaports, and navigable inland waterways; and

(iv) the ability of projects to generate national economic benefits, including—

(I) improvements to economic productivity through congestion relief; and

(II) improvements to passenger and freight movement.

(2) ELEMENTS OF NATIONAL PLAN.—

(A) ROLE OF STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—The national plan shall be modeled after the statewide strategic long-range transportation plans developed under section 5204(f).

(B) NATIONAL AND REGIONAL TRANSPORTATION PROJECTS.—Giving emphasis to the facilities that serve important national and regional transportation functions, the national plan shall include an identification of transportation projects (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, and intermodal connectors) that facilitate the development of—

(i) a national transportation system; and

(ii) an integrated regional transportation system.

(C) INTERCONNECTIVITY BETWEEN STATES AND REGIONS.—The national plan shall ensure a level of interconnectivity among transportation facilities and strategies at State and regional borders.

(D) IDENTIFICATION OF POTENTIAL HIGH-SPEED INTERCITY RAIL CORRIDORS AND SHIPPING ROUTES.—In developing the national plan, the Secretary, in consultation with State departments of transportation, shall identify potential high-

speed passenger rail projects and potential short seas shipping routes.

(E) INTERCITY BUS NETWORK.—The national plan shall identify projects to preserve and expand the Nation's intercity bus network and provide interconnectivity to other forms of intercity and local transportation.

(F) AEROTROPOLIS TRANSPORTATION SYSTEMS.—The national plan shall identify aerotropolis transportation systems that will enhance economic competitiveness and exports in the United States by providing efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance for freight and passenger transportation.

(G) COST ESTIMATES FOR PROJECTS.—In developing the national plan, the Secretary shall include estimates of the costs of each of the projects and strategies identified in the national plan and a total cost of all of the projects and strategies identified in the national plan.

(3) ISSUANCE AND UPDATING OF NATIONAL PLAN.—

(A) ISSUANCE.—Not later than April 30, 2014, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate the national plan developed under this section.

(B) UPDATES.—At least once every 2 years after the date of submission of the national plan under subparagraph (A), the Secretary—

(i) in consultation with State departments of transportation, shall update the national plan; and

(ii) shall submit the updated national plan to the committees referred to in subparagraph (A).

(b) DISSEMINATION OF TRANSPORTATION DATA AND STATISTICS FOR DEVELOPMENT OF STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—

(1) IN GENERAL.—The Secretary shall develop, and disseminate to the States, relevant long-range transportation data and statistics that a State or the Secretary, as the case may be, shall use in the development of statewide, regional, and national strategic long-range transportation plans.

(2) TYPES OF TRANSPORTATION DATA AND STATISTICS TO BE DEVELOPED.—The data and statistics referred to in paragraph (1) shall include, at a minimum, 20-year projections—

(A) of population growth in each State;

(B) from the Department of Transportation's Freight Analysis Framework (referred to in this paragraph as "FAF"), including projections for annual average daily truck flow on specific highway routes;

(C) from the Department of Transportation's Highway Performance Monitoring System (referred to in this paragraph as "HPMS") of estimated peak period congestion on major highway routes or segments of routes and in metropolitan areas;

(D) from HPMS and FAF of estimated traffic volumes on segments of highway that are projected to be classified as moderately or highly congested;

(E) from HPMS and FAF for highway bottlenecks;

(F) of public transportation use in urbanized areas, including for each urbanized area a comparison of estimated ridership growth and estimated public transportation revenue vehicle miles to available system capacity and current service levels;

(G) of aviation passenger enplanements and cargo ton miles flown;

(H) of increases in unmanned aerial system and general aviation active aircraft and hours flown;

(I) of capacity-constrained airports and congested air traffic routes;

(J) of passenger demand for suborbital space tourism;

(K) of demand on major freight rail lines;

(L) of shipping traffic at United States ports; and

(M) of intercity bus and passenger rail ridership demand.

§ 5206. National performance management system

(a) ESTABLISHMENT OF NATIONAL PERFORMANCE MANAGEMENT SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish a national performance management system to track the Nation's progress toward broad national performance goals for the Nation's highway and public transportation systems.

(2) COMPONENTS.—The National Performance Management System shall include the following components:

(A) A national performance management goal.

(B) Core performance measures.

(C) Technical guidance.

(D) A State performance management process, including—

(i) performance targets;

(ii) strategies; and

(iii) reporting requirements.

(b) NATIONAL PERFORMANCE MANAGEMENT GOAL.—

(1) ESTABLISHMENT.—The Secretary shall establish, in broad qualitative terms, a national performance management goal for the Nation's highway and public transportation systems to ensure economic growth, safety improvement, and increased mobility.

(2) CONSISTENCY WITH NATIONAL STRATEGIC TRANSPORTATION PLAN.—The national strategic transportation plan, to the greatest extent practicable, shall be consistent with the national performance management goal.

(c) CORE PERFORMANCE MEASURES.—

(1) ESTABLISHMENT.—Not later than 2 years after the date of enactment of this section, the Secretary, in collaboration with the States, metropolitan planning organizations, and public transportation agencies through the process described in paragraph (4) shall establish core performance measures.

(2) IMPLEMENTATION.—A State shall be required to implement the core performance measures as part of the State's performance management process established in subsection (e).

(3) CATEGORIES.—The core performance measures shall include not more than 2 measures from each of the following categories:

(A) Pavement condition on the National Highway System.

(B) Bridge condition on the National Highway System.

(C) Highway and motor carrier safety.

(D) Highway safety infrastructure asset management.

(E) Bike and pedestrian safety.

(F) Highway congestion.

(G) Air emissions and energy consumption.

(H) Freight mobility.

(I) Public transportation state of good repair.

(J) Public transportation service availability.

(K) Rural connectivity.

(4) PROCESS.—The core performance measures shall be established under the following process:

(A) At any time after the date of enactment of this section, the State departments of transportation (in consultation with metropolitan planning organizations and public transportation agencies), acting through their national organization, may jointly submit to the Secretary a complete set of recommended core performance measures for use in statewide transportation planning.

(B) The Secretary shall give substantial weight to the recommendations submitted by the State departments of transportation, if such recommendations are submitted not later than 18 months after enactment of this section.

(C) After consultation with the State departments of transportation regarding the recommendations, the Secretary shall issue a notice in the Federal Register announcing the Secretary's proposed set of core performance measures and providing an opportunity for comment.

(D) After considering any comments, the Secretary shall publish a notice in the Federal Register not later than 2 years after the date of enactment of this section announcing the final set of core performance measures.

(d) TECHNICAL GUIDANCE.—

(1) IN GENERAL.—Not later than 6 months after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D), the Secretary shall issue technical guidance, including a uniform methodology for collecting data, for use by the States in applying the core performance measures.

(2) DEVELOPMENT.—The Secretary shall—

(A) develop the technical guidance in collaboration with the State departments of transportation;

(B) give substantial weight to any recommendations submitted by the State departments of transportation through their national organization, if such recommendations are submitted not later than 3 months after the Secretary pub-

lishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D); and

(C) provide a reasonable opportunity for State departments of transportation to comment on the technical guidance before it is issued.

(e) STATE PERFORMANCE MANAGEMENT PROCESS.—

(1) ESTABLISHMENT OF PERFORMANCE TARGETS.—

(A) INITIAL TARGETS.—Not later than 1 year after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D), a State shall amend its statewide strategic long-range transportation plan to include a target level of performance for each of the core performance measures.

(B) REVISIONS TO TARGETS.—A State may revise its performance targets for the core performance measures at any time by amending its statewide strategic long-range transportation plan and resubmitting the plan to the Secretary.

(2) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—In order to improve the outcomes of the transportation planning process, the States shall implement a national performance reporting process in accordance with subparagraphs (B) and (C).

(B) BASELINE REPORT.—Not later than 6 months after adopting its initial performance targets for the core performance measures pursuant to paragraph (1)(A), a State shall publish a baseline report including data from the most recent year for which data is available for the full set of core performance measures.

(C) ANNUAL PROGRESS REPORTS.—Not later than 18 months after publication of the baseline report, and annually thereafter, a State shall publish a report documenting the progress that the State has made in meeting its performance targets for the core performance measures.

CHAPTER 53—PUBLIC TRANSPORTATION

Sec.
5301. Policies, findings, and purposes.

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[5308.Clean fuels grant program.
[5309. Capital investment grants.
[5310. Formula grants for special needs of elderly individuals and individuals with disabilities.
[5311. Formula grants for other than urbanized areas.
[5312. Research, development, demonstration, and deployment projects.
[5313. Transit cooperative research program.
[5314. National research programs.
[5315. National transit institute.
[5316. Job access and reverse commute formula grants.
[5317. New freedom program.]
5309. Capital investment grants.
5310. Bus and bus facilities formula grants.
5311. Rural area formula grants.
5312. Transit research.

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5317. Coordinated access and mobility program formula grants.

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[5320. Alternative transportation in parks and public lands.]

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[5322. Human resource programs.]
5322. Training and technical assistance programs.

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5326. Private sector participation.

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[5337. Apportionment based on fixed guideway factors.]
5337. Fixed guideway modernization program.

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[5339.Alternatives analysis program.
[5340.Apportionments based on growing States and high density States formula factors.]

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§ 5302. Definitions

(a) IN GENERAL.—Except as otherwise specifically provided, in this chapter, the following definitions apply:

(1) CAPITAL PROJECT.—The term "capital project" means a project for—

(A) * * *

* * * * * * *

(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed [10 percent] *15 percent* of such recipient's annual formula apportionment under sections 5307 and 5311;

* * * * * * *

(12) RURAL AREA.—The term "rural area" means an area encompassing a population of less than 50,000 people that has not been designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce.

[(12)] *(13)* SECRETARY.—The term "Secretary" means the Secretary of Transportation.

[(13)] *(14)* STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

[(14)] *(15)* TRANSIT.—The term "transit" means public transportation.

[(15)] *(16)* TRANSIT ENHANCEMENT.—The term "transit enhancement" means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

(A) * * *

* * * * * * *

[(16)] *(17)* URBAN AREA.—The term "urban area" means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

[(17)] *(18)* URBANIZED AREA.—The term "urbanized area" means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce.

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[§ 5303. Metropolitan transportation planning

[(a) POLICY.—It is in the national interest to—

[(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

[(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

[(b) DEFINITIONS.—In this section and section 5304, the following definitions apply:

[(1) METROPOLITAN PLANNING AREA.—The term "metropolitan planning area" means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

[(2) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" means the policy board of an organization created as a result of the designation process in subsection (d).

[(3) NONMETROPOLITAN AREA.—The term "nonmetropolitan area" means a geographic area outside a designated metropolitan planning area.

[(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term "nonmetropolitan local official" means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

[(5) TIP.—The term "TIP" means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

[(6) URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

[(c) GENERAL REQUIREMENTS.—

[(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long- range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

[(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

[(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

[(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

[(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

[(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

[(B) in accordance with procedures established by applicable State or local law.

[(2) STRUCTURE.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

[(A) local elected officials;

[(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

[(C) appropriate State officials.

[(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

[(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and

[(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

[(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

[(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based

on population) as named by the Bureau of the Census) as appropriate to carry out this section.

[(6) DESIGNATION OF MORE THAN ONE METROPOLITAN PLANNING ORGANIZATION.—More than one metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than one metropolitan planning organization for the area appropriate.

[(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

[(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

[(2) INCLUDED AREA.—Each metropolitan planning area—

[(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

[(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

[(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

[(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the Federal Public Transportation Act of 2005, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

[(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Federal Public Transportation Act of 2005 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

[(A) shall be established in the manner described in subsection (d)(1);

[(B) shall encompass the areas described in paragraph (2)(A);

[(C) may encompass the areas described in paragraph (2)(B); and

[(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

[(f) COORDINATION IN MULTISTATE AREAS.—

[(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organi-

zations to provide coordinated transportation planning for the entire metropolitan area.

[(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any two or more States—

[(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

[(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

[(3) LAKE TAHOE REGION.—

[(A) DEFINITION.—In this paragraph, the term "Lake Tahoe region" has the meaning given the term "region" in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

[(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

[(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

[(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

[(C) INTERSTATE COMPACT.—

[(i) IN GENERAL.—Subject to clause (ii), and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

[(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

[(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

[(II) FUNDING.—For fiscal year 2008 and each fiscal year thereafter, in addition to other funds made available to the metropolitan planning organization for the Lake Tahoe region under this chapter and title 23, prior to any allocation under section 202 of title 23, and notwithstanding the allocation provisions of section 202, the Secretary

shall set aside ½ of 1 percent of all funds authorized to be appropriated for such fiscal year to carry out section 204 of title 23, and shall make such funds available to the metropolitan planning organization for the Lake Tahoe region to carry out the transportation planning process, environmental reviews, preliminary engineering, and design to complete environmental documentation for transportation projects for the Lake Tahoe region under the Tahoe Regional Planning Compact as consented to in Public Law 96-551 (94 Stat. 3233) and this paragraph.

[(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

[(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

[(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of such title.

[(4) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

[(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

[(1) NONATTAINMENT AREAS.—If more than one metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

[(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under this chapter, is located within the boundaries of more than one metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

[(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

[(A) recipients of assistance under this chapter;

[(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

[(C) recipients of assistance under section 204 of title 23.

[(h) SCOPE OF PLANNING PROCESS.—

[(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

[(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

[(B) increase the safety of the transportation system for motorized and nonmotorized users;

[(C) increase the security of the transportation system for motorized and nonmotorized users;

[(D) increase the accessibility and mobility of people and for freight;

[(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

[(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

[(G) promote efficient system management and operation; and

[(H) emphasize the preservation of the existing transportation system.

[(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

[(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

[(1) IN GENERAL.—Each metropolitan planning organization shall prepare a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

[(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

[(B) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection,

the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

[(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

[(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as such factors relate to a 20-year forecast period.

[(B) MITIGATION ACTIVITIES.—

[(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

[(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

[(C) FINANCIAL PLAN.—A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

[(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

[(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

[(F) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

[(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization 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.

[(4) CONSULTATION.—

[(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

[(B) ISSUES.—The consultation shall involve, as appropriate—

[(i) comparison of transportation plans with State conservation plans or maps, if available; or

[(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

[(5) PARTICIPATION BY INTERESTED PARTIES.—

[(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

[(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

[(i) shall be developed in consultation with all interested parties; and

[(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

[(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

[(i) hold any public meetings at convenient and accessible locations and times;

[(ii) employ visualization techniques to describe plans; and

[(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

[(6) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World

Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

[(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

[(j) METROPOLITAN TIP.—

[(1) DEVELOPMENT.—

[(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.

[(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

[(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

[(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

[(2) CONTENTS.—

[(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

[(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

[(i) demonstrates how the TIP can be implemented;

[(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

[(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

[(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

[(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

[(3) INCLUDED PROJECTS.—

[(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are

proposed for funding under this chapter and chapter 1 of title 23.

[(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

[(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

[(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

[(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

[(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

[(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

[(5) SELECTION OF PROJECTS.—

[(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

[(i) by—

[(I) in the case of projects under title 23, the State; and

[(II) in the case of projects under this chapter, the designated recipients of public transportation funding; and

[(ii) in cooperation with the metropolitan planning organization.

[(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

[(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

[(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

[(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illus-

trative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

[(7) PUBLICATION.—

[(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

[(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

[(C) RULEMAKING.—Not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations setting standards for the listing required by subparagraph (B) and specifying the types of data to be included in such list, including sufficient information about each project to identify its type, location, and amount obligated.

[(k) TRANSPORTATION MANAGEMENT AREAS.—

[(1) IDENTIFICATION AND DESIGNATION.—

[(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

[(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

[(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

[(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one year after the identification of a transportation management area.

[(4) SELECTION OF PROJECTS.—

[(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area

serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

[(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

[(5) CERTIFICATION.—

[(A) IN GENERAL.—The Secretary shall—

[(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

[(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

[(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

[(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

[(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

[(C) EFFECT OF FAILURE TO CERTIFY.—

[(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

[(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

[(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

[(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—

[(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

[(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

[(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

[(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

[(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

[(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this chapter or title 23.

[(o) FUNDING.—Funds set aside under section 5305(g) of this title or section 104(f) of title 23 shall be available to carry out this section.

[(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.

[§ 5304. Statewide transportation planning

[(a) GENERAL REQUIREMENTS.—

[(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 5303.

[(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (includ-

ing accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

[(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5303(a), and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

[(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

[(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5303 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

[(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

[(c) INTERSTATE AGREEMENTS.—

[(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

[(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

[(d) SCOPE OF PLANNING PROCESS.—

[(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

[(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

[(B) increase the safety of the transportation system for motorized and nonmotorized users;

[(C) increase the security of the transportation system for motorized and nonmotorized users;

[(D) increase the accessibility and mobility of people and freight;

[(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

[(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

[(G) promote efficient system management and operation; and

[(H) emphasize the preservation of the existing transportation system.

[(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.

[(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

[(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

[(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

[(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

[(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

[(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

[(2) CONSULTATION WITH GOVERNMENTS.—

[(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

[(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

[(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

[(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

[(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

[(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of trans-

portation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

[(3) PARTICIPATION BY INTERESTED PARTIES.—

[(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan.

[(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

[(i) hold any public meetings at convenient and accessible locations and times;

[(ii) employ visualization techniques to describe plans; and

[(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

[(4) MITIGATION ACTIVITIES.—

[(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

[(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

[(5) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

[(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

[(7) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the

preservation and most efficient use of the existing transportation system.

[(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

[(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

[(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

[(2) CONSULTATION WITH GOVERNMENTS.—

[(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

[(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

[(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

[(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

[(4) INCLUDED PROJECTS.—

[(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

[(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

[(C) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

[(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

[(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

[(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

[(i) consistent with the statewide transportation plan developed under this section for the State;

[(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

[(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under that Act.

[(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a 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.

[(F) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

[(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

[(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

[(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

[(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this chapter and title 23.

[(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding

projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title) by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

[(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

[(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5303.

[(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

[(h) FUNDING.—Funds set aside pursuant to section 5305(g) of this title and section 104(i) of title 23 shall be available to carry out this section.

[(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5303, and sections 134 and 135 of title 23, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5303, and sections 134 and 135 of title 23, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 5303, and sections 134 and 135 of title 23, as appropriate.

[(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.]

§ 5303. Metropolitan transportation planning

Metropolitan transportation planning programs funded under section 5305 shall be carried out in accordance with the metropolitan planning provisions of section 5203.

§ 5304. Statewide transportation planning

Statewide transportation planning programs funded under section 5305 shall be carried out in accordance with the metropolitan planning provisions of section 5204.

§ 5305. Planning programs

(a) * * *

* * * * * * *

(d) METROPOLITAN *TRANSPORTATION* PLANNING PROGRAM.—

(1) * * *

(2) ALLOCATION TO MPO'S.—Amounts apportioned to a State under paragraph (1) shall be made available, not later than 30 days after the date of apportionment, to metropolitan planning organizations in the State [designated under this section] *responsible for carrying out the provisions of section 5203 of this title* under a formula that—

(A) * * *

* * * * * * *

(e) [STATE] *STATEWIDE TRANSPORTATION* PLANNING AND RESEARCH PROGRAM.—

(1) APPORTIONMENT TO STATES.—

(A) IN GENERAL.—The Secretary shall apportion the amounts made available under subsection (g)(2) among the States for grants and contracts to carry out this section and sections 5304, 5306, [5315,] and 5322 in the ratio that—

(i) * * *

* * * * * * *

(g) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under [section 5338(c)] *section 5338(a)(2)* for fiscal years 2005 through 2012—

(1) * * *

* * * * * * *

§ 5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations

(a) PRIVATE ENTERPRISE PARTICIPATION.—A plan or program required by section 5303, 5304, or 5305 of this title shall encourage to the maximum extent feasible[, as determined by local policies, criteria, and decisionmaking,] the participation of private enterprise. If equipment or a facility already being used in an urban area is to be acquired under this chapter, the program shall provide that it be improved so that it will better serve the transportation needs of the area.

* * * * * * *

§ 5307. Urbanized area formula grants

(a) * * *

(b) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants under this section for—

(A) * * *

* * * * * * *

(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

(i) * * *

* * * * * * *

(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area; **[**and**]**

(F) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of at least 200,000 if the State or regional authority providing public transportation for the urbanized area is operating—

(i) 75 buses or fewer in fixed-route service during peak service hours, not to exceed 50 percent of the net project cost of the project for operating expenses; and

(ii) more than 75 but fewer than 100 buses in fixed-route service during peak service hours, not to exceed 25 percent of the net project cost of the project for operating expenses; and

[(F)**]** *(G)* operating costs of equipment and facilities for use in public transportation for local governmental authorities in areas which adopted transit operating and financing plans that became a part of the Houston, Texas, urbanized area as a result of the 2000 decennial census of population, but lie outside the service area of the principal public transportation agency that serves the Houston urbanized area.

* * * * * * *

(3) *TRANSPORTATION MANAGEMENT AREAS*.—In a transportation management area designated under section 5303(k) of this title, amounts that cannot be used to pay operating expenses under this section also are available for a highway project if—

(A) * * *

* * * * * * *

(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a chief executive officer of a State under this section)—

(A) * * *

* * * * * * *

(D) will ensure that [elderly and handicapped individuals, or an] *elderly individuals, individuals with disabilities, and any* individual presenting a medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.)[,] will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section not more than 50 percent of the peak hour fare;

* * * * * * *

(H) will comply with [section 5301(a), section 5301(d),] *section 5301* and sections 5303 through 5306;

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation; *and*

(J)(i) * * *

(ii) has decided that the expenditure for security projects is not necessary[; and].

[(K) in the case of a recipient for an urbanized area with a population of at least 200,000—

[(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancements, as defined in section 5302(a); and

[(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and]

* * * * * * *

(k) RELATIONSHIP TO OTHER LAWS.—

(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, [5315(c),] 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333, and 5335 apply to this section and to any grant made under this section.

* * * * * * *

[§ 5308. Clean fuels grant program

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

[(1) CLEAN FUEL BUS.—The term "clean fuel bus" means a passenger vehicle used to provide public transportation that—

[(A) is powered by—

[(i) compressed natural gas;

[(ii) liquefied natural gas;

[(iii) biodiesel fuels;

[(iv) batteries;

[(v) alcohol-based fuels;

[(vi) hybrid electric;

[(vii) fuel cell;

[(viii) clean diesel, to the extent allowed under this section; or

[(ix) other low or zero emissions technology; and

[(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.

[(2) ELIGIBLE PROJECT.—The term "eligible project"—

[(A) means a project in a nonattainment or maintenance area described in paragraph (4)(A) for—

[(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;

[(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment for such buses; or

[(iii) constructing new or improving existing public transportation facilities to accommodate clean fuel buses; and

[(B) at the discretion of the Secretary, may include a project located in a nonattainment or maintenance area described in paragraph (4)(A) relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

[(3) MAINTENANCE AREA.—The term "maintenance area" has the meaning such term has under section 101 of title 23.

[(4) RECIPIENT.—

[(A) IN GENERAL.—The term "recipient" means a designated recipient (as defined in section 5307(a)(2)) for an area that, and a recipient for an urbanized area with a population of less than 200,000 that—

[(i) is designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

[(ii) is a maintenance area for ozone or carbon monoxide.

[(B) SMALLER URBANIZED AREAS.—In the case of an urbanized area with a population of less than 200,000, the State in which the area is located shall act as the recipient for the area under this section.

[(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to recipients to finance eligible projects.

[(c) CLEAN DIESEL BUSES.—Not more than 25 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

[(d) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

[(2) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to projects carried out under this section.

[(e) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

[(1) shall remain available to a project for 2 years after the fiscal year for which the amount is made available or appropriated; and

[(2) that remains unobligated at the end of the period described in paragraph (1) shall be added to the amount made available in the following fiscal year.

[§ 5309. Capital investment grants

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

[(1) ALTERNATIVES ANALYSIS.—The term "alternatives analysis" means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

[(A) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

[(B) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

[(C) the selection of a locally preferred alternative; and

[(D) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.

[(2) MAJOR NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term "major new fixed guideway capital project" means a new fixed guideway capital project for which the Federal assistance provided or to be provided under this section is $75,000,000 or more.

[(3) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term "new fixed guideway capital project" means a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

[(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

[(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternatives analysis or preliminary engineering;

[(2) capital projects to modernize existing fixed guideway systems;

[(3) capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and

[(4) the development of corridors to support new fixed guideway capital projects under subsections (d) and (e), including protecting rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park and ride lots, and other nonvehicular capital improvements that the Secretary may decide would result in increased public transportation usage in the corridor.

[(c) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

[(A) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

[(B) the applicant has, or will have—

[(i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

[(ii) satisfactory continuing control over the use of the equipment or facilities; and

[(iii) the capability and willingness to maintain the equipment or facilities.

[(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

[(3) GRANTEE REQUIREMENTS.—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

[(d) MAJOR CAPITAL INVESTMENT GRANTS OF $75,000,000 OR MORE.—

[(1) FULL FUNDING GRANT AGREEMENT.—

[(A) IN GENERAL.—A major new fixed guideway capital project shall be carried out through a full funding grant agreement.

[(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving assistance for a major new fixed guideway capital project that—

[(i) is authorized for final design and construction; and

[(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

[(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a major new fixed guideway capital project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the project is—

[(A) based on the results of an alternatives analysis and preliminary engineering;

[(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use policies and future patterns; and

[(C) supported by an acceptable degree of local financial commitment (including evidence of stable and dependable

financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a reduction in existing public transportation services or level of service to operate the proposed project.

[(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

[(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

[(B) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

[(C) the direct and indirect costs of relevant alternatives;

[(D) factors such as—

[(i) congestion relief;

[(ii) improved mobility;

[(iii) air pollution;

[(iv) noise pollution;

[(v) energy consumption; and

[(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

[(E) reductions in local infrastructure costs and other benefits achieved through compact land use development, such as positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

[(F) the cost of suburban sprawl;

[(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

[(H) population density and current transit ridership in the transportation corridor;

[(I) the technical capability of the grant recipient to construct the project;

[(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

[(K) other factors that the Secretary determines to be appropriate to carry out this subsection.

[(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

[(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

[(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

[(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

[(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services

necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the proposed project.

[(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

[(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

[(ii) existing grant commitments;

[(iii) the degree to which financing sources are dedicated to the proposed purposes;

[(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

[(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

[(C) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

[(5) PROJECT ADVANCEMENT AND RATINGS.—

[(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

[(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating.

[(6) POLICY GUIDANCE.—

[(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new fixed guideway capital project review and evaluation process and criteria—

[(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005; and

[(ii) each time significant changes are made by the Secretary to the process and criteria, but not less frequently than once every 2 years.

[(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

[(i) invite public comment to the policy guidance published under subparagraph (A); and

[(ii) publish a response to the comments received under clause (i).

[(e) CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—

[(1) IN GENERAL.—

[(A) APPLICABILITY OF REQUIREMENTS.—Except as provided by subparagraph (B), a new fixed guideway capital project shall be subject to the requirements of this subsection if the Federal assistance provided or to be provided under this section for the project is less than $75,000,000 and the total estimated net capital cost of the project is less than $250,000,000.

[(B) PROJECTS RECEIVING LESS THAN $25,000,000 IN FEDERAL ASSISTANCE.—If the assistance provided under this section with respect to a new fixed guideway capital project is less than $25,000,000, the requirements of this subsection shall not apply to the project until such date as the final regulation to be issued under paragraph (9) takes effect.

[(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance under this subsection with respect to a proposed project only if the Secretary finds that the project is—

[(A) based on the results of planning and alternatives analysis;

[(B) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

[(C) supported by an acceptable degree of local financial commitment.

[(3) PLANNING AND ALTERNATIVES.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

[(4) PROJECT JUSTIFICATION.—For purposes of making the finding under paragraph (2)(B), the Secretary shall—

[(A) determine the degree to which the project is consistent with local land use policies and is likely to achieve local developmental goals;

[(B) determine the cost effectiveness of the project at the time of the initiation of revenue service;

[(C) determine the degree to which the project will have a positive effect on local economic development;

[(D) consider the reliability of the forecasting methods used to estimate costs and ridership associated with the project; and

[(E) consider other factors that the Secretary determines appropriate to carry out this subsection.

[(5) LOCAL FINANCIAL COMMITMENT.—

[(A) IN GENERAL.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

[(B) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

[(6) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

[(A) GENERAL RULE.—A proposed project under this subsection may advance from planning and alternatives analysis to project development and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements.

[(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required by this subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating.

[(7) CONTENTS OF PROJECT CONSTRUCTION GRANT AGREEMENT.—A project construction grant agreement under this subsection shall specify the scope of the project to be constructed, the estimated net project cost of the project, the schedule under which the project shall be constructed, the maximum amount of funding to be obtained under this subsection, the proposed schedule for obligation of future Federal grants, and the sources of funding from other than the Government. The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

[(8) LIMITATION ON ENTRY INTO CONSTRUCTION GRANT AGREEMENT.—The Secretary may enter into a project construction grant agreement for a project under this subsection only if the project is authorized for construction and has been rated as high, medium-high, or medium under this subsection.

[(9) REGULATIONS.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.

[(10) FIXED GUIDEWAY CAPITAL PROJECT.—In this subsection, the term "fixed guideway capital project" includes a corridor-based bus capital project if—

[(A) a substantial portion of the project operates in a separate right-of-way dedicated for public transit use during peak hour operations; or

[(B) the project represents a substantial investment in a defined corridor as demonstrated by features such as park-and-ride lots, transit stations, bus arrival and departure signage, intelligent transportation systems technology, traffic signal priority, off-board fare collection, advanced bus technology, and other features that support the long-term corridor investment.

[(11) IMPACT REPORT.—

[(A) IN GENERAL.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects.

[(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

[(f) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005. Subsection (e) also does not apply to projects for which the Secretary has received an application for final design before such date of enactment.

[(g) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

[(1) LETTERS OF INTENT.—

[(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

[(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31 or an administrative commitment.

[(2) FULL FUNDING GRANT AGREEMENTS.—

[(A) TERMS.—The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

[(i) establish the terms of participation by the Government in a project under this section;

[(ii) establish the maximum amount of Government financial assistance for the project;

[(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

[(iv) make timely and efficient management of the project easier according to the law of the United States.

[(B) SPECIAL FINANCIAL RULES.—

[(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

[(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

[(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

[(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

[(C) BEFORE AND AFTER STUDY.—

[(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

[(I) describes and analyzes the impacts of the new fixed guideway capital project on transit services and transit ridership;

[(II) evaluates the consistency of predicted and actual project characteristics and performance; and

[(III) identifies sources of differences between predicted and actual outcomes.

[(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

[(I) SUBMISSION OF PLAN.—Applicants seeking an agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

[(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

[(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

[(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

[(cc) collection of data on the transit system 2 years after the opening of the new fixed guideway capital project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the project; and

[(dd) analysis of the consistency of predicted project characteristics with the after data.

[(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

[(3) EARLY SYSTEM WORK AGREEMENTS.—

[(A) CONDITIONS.—The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

[(i) a full funding grant agreement for the project will be made; and

[(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

[(B) CONTENTS.—

[(i) IN GENERAL.—A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long- term project management easier.

[(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

[(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a

cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

[(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

[(4) LIMITATION ON AMOUNTS.—

[(A) MAJOR CAPITAL INVESTMENT GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for major new fixed guideway capital projects may be not more than the greater of the amount authorized under sections 5338(a)(3) and 5338(c) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(A) and (m)(2)(A)(ii) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

[(B) OTHER CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all project construction grant agreements and early system work agreements under this subsection for small capital projects described in subsection (e) may be not more than the greater of the amount allocated under subsection (m)(2)(A)(i) for such projects or an amount equivalent to the last fiscal year of funding allocated under such subsection for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by an agreement. The total amount covered by new contingent commitments included in project construction grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

[(C) INCLUSION OF CERTAIN COMMITMENTS.—Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (106 Stat. 2125) for the San

Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005, and 2006 shall be charged against section 3032(g)(2) of that Act.

[(D) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

[(5) NOTIFICATION OF CONGRESS.—At least 60 days before issuing a letter of intent or entering into a full funding grant agreement or project construction grant agreement under this section, the Secretary shall notify, in writing, the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

[(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—

[(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost. A grant for the project shall be for 80 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

[(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

[(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

[(A) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

[(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

[(4) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

[(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section, including paragraph (1) and subsections (d)(4)(B)(v) and (e)(5), shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

[(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling

stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

[(7) LIMITATION ON APPLICABILITY.—This subsection does not apply to projects for which the Secretary has entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

[(i) UNDERTAKING PROJECTS IN ADVANCE.—

[(1) IN GENERAL.—The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

[(A) the State or local governmental authority applies for the payment;

[(B) the Secretary approves the payment; and

[(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

[(2) FINANCING COSTS.—

[(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

[(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

[(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

[(j) AVAILABILITY OF AMOUNTS.—

[(1) IN GENERAL.—An amount made available or appropriated under section 5338(a)(3)(C)(iii), 5338(a)(3)(C)(iv), 5338(b)(2)(E), or 5338(c) for replacement, rehabilitation, and purchase of buses and related equipment and construction of bus-related facilities or for new fixed guideway capital projects shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.

[(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

[(k) REPORTS ON NEW STARTS.—

[(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and

Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate a report that includes—

[(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

[(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Federal Public Transportation Act of 2005; and

[(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

[(2) ANNUAL GAO REVIEW.—The Comptroller General shall—

[(A) conduct an annual review of—

[(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

[(ii) the Secretary's implementation of such processes and procedures; and

[(B) report to Congress on the results of such review by May 31 of each year.

[(l) OTHER REPORTS.—

[(1) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

[(2) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

[(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, and each year thereafter, the Secretary shall submit to the committees referred to in subsection (k)(1) a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing new fixed guideway capital projects.

[(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

[(i) estimates made at the time projects are approved for entrance into final design;

[(ii) costs and ridership when the project commences revenue operation; and

[(iii) costs and ridership when the project has been in operation for 2 years.

[(C) CONSIDERATIONS.—In making comparisons under subparagraph (B), the Secretary shall consider factors having an impact on costs and ridership not under the control of the contractor. The Secretary shall also consider the role taken by each contractor in the development of the project.

[(3) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public

Transportation Act of 2005, the Secretary shall submit to the committees referred to in subsection (k)(1) a report on the suitability of allowing contractors to public transportation agencies that undertake new fixed guideway capital projects under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.

[(m) ALLOCATING AMOUNTS.—

[(1) FISCAL YEAR 2005.—Of the amounts made available or appropriated for fiscal year 2005 under section 5338(a)(3)—

[(A) $1,437,829,600 shall be allocated for new fixed capital projects under subsection (d);

[(B) $1,204,684,800 shall be allocated for capital projects for fixed guideway modernization; and

[(C) $669,600,000 shall be allocated for capital projects for buses and bus-related equipment and facilities.

[(2) FISCAL YEARS 2006 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012.—The amounts made available or appropriated for fiscal years 2006 through 2012 under sections 5338(b) and 5338(c) shall be allocated as follows:

[(A) CAPITAL INVESTMENT GRANTS.—Of the amounts appropriated under section 5338(c)—

[(i) $200,000,000 for each of fiscal years 2007 through 2012 shall be allocated for projects for new fixed guideway capital projects of less than $75,000,000 in accordance with subsection (e); and

[(ii) the remainder shall be allocated for major new fixed guideway capital projects in accordance with subsection (d).

[(B) FIXED GUIDEWAY MODERNIZATION.—The amounts made available under section 5338(b)(2)(D) shall be allocated for capital projects for fixed guideway modernization.

[(C) BUSES AND BUS-RELATED EQUIPMENT AND FACILITIES.—The amounts made available under section 5338(b)(2)(E) shall be allocated for capital projects for buses and bus-related equipment and facilities.

[(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(D) for fiscal year 2006 and each fiscal year thereafter shall be allocated in accordance with section 5337.

[(4) PRELIMINARY ENGINEERING AND ALTERNATIVES ANALYSIS.—Not more that 8 percent of the allocation described in paragraph (1)(A) may be expended on alternatives analysis and preliminary engineering.

[(5) PRELIMINARY ENGINEERING.—Not more than 8 percent of the allocation described in paragraph (2)(A) may be expended on preliminary engineering.

[(6) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

[(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

[(B) $15,000,000 shall be available in each of fiscal years 2006 through 2012 for capital projects in Alaska and Hawaii for new fixed guideway ferry systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

[(C) $5,000,000 shall be available for each of fiscal years 2006 though 2012 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for docks, waterfront development projects, and related transportation infrastructure.

[(7) BUS AND BUS FACILITY GRANTS.—The amounts made available under paragraphs (1)(C) and (2)(C) shall be allocated as follows:

[(A) FERRY BOAT SYSTEMS.—$10,000,000 shall be available in each of fiscal years 2006 through 2012 for ferry boats or ferry terminal facilities. Of such funds, the following amounts shall be set aside for each fiscal year:

[(i) $2,500,000 for the San Francisco Water Transit Authority.

[(ii) $2,500,000 for the Massachusetts Bay Transportation Authority Ferry System.

[(iii) $1,000,000 for the Camden, New Jersey Ferry System.

[(iv) $1,000,000 for the Governor's Island, New York Ferry System.

[(v) $1,000,000 for the Philadelphia Penn's Landing Ferry Terminal.

[(vi) $1,000,000 for the Staten Island Ferry.

[(vii) $650,000 for the Maine State Ferry Service, Rockland.

[(viii) $350,000 for the Swans Island, Maine Ferry Service.

[(B) FUEL CELL BUS PROGRAM.—The following amounts shall be set aside for the national fuel cell bus technology development program under section 3045 of the Federal Public Transportation Act of 2005:

[(i) $11,250,000 for fiscal year 2006.

[(ii) $11,500,000 for fiscal year 2007.

[(iii) $12,750,000 for fiscal year 2008.

[(iv) $13,500,000 for fiscal year 2009.

[(v) $13,500,000 for fiscal year 2010.

[(vi) $13,500,000 for fiscal year 2011.

[(vii) $6,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.

[(vii) $13,500,000 for fiscal year 2012.

[(C) PROJECTS NOT IN URBANIZED AREAS.—Not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

[(D) INTERMODAL TERMINALS.—Not less than $35,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

[(E) BUS TESTING.—$3,000,000 shall be available in each fiscal year for bus testing under section 5318.

[(8) BUS AND BUS FACILITY GRANT CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(C), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

[§ 5310. Formula grants for special needs of elderly individuals and individuals with disabilities

[(a) GENERAL AUTHORITY.—

[(1) GRANTS.—The Secretary may make grants to States and local governmental authorities under this section for public transportation capital projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

[(2) SUBRECIPIENTS.—A State that receives a grant under this section may allocate the amounts provided under the grant to—

[(A) a private nonprofit organization, if the public transportation service provided under paragraph (1) is unavailable, insufficient, or inappropriate; or

[(B) a governmental authority that—

[(i) is approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

[(ii) certifies that there are not any nonprofit organizations readily available in the area to provide the services described under paragraph (1).

[(3) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

[(4) ADMINISTRATIVE EXPENSES.—A State or local governmental authority may use not more than 10 percent of the amounts apportioned to the State under this section to administer, plan, and provide technical assistance for a project funded under this section.

[(b) APPORTIONMENT AND TRANSFERS.—

[(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

[(2) TRANSFER OF FUNDS.—Any funds apportioned to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

[(c) GOVERNMENT'S SHARE OF COSTS.—

[(1) CAPITAL PROJECTS.—

[(A) IN GENERAL.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary.

[(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive an increased Government share in accordance with the formula under that section.

[(2) REMAINDER.—The remainder of the net project costs—

[(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

[(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

[(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

[(3) USE OF CERTAIN FUNDS.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

[(d) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant under this section shall be subject to all requirements of a grant under section 5307 to the extent the Secretary determines appropriate.

[(2) CERTIFICATION REQUIREMENTS.—

[(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

[(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Beginning in fiscal year 2007, each grant recipient under this section shall certify that—

[(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

[(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

[(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

[(e) STATE PROGRAM OF PROJECTS.—

[(1) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects.

[(2) SUBMISSION AND APPROVAL.—A State shall submit to the Secretary annually for approval a program of projects. The program shall contain an assurance that the program provides for maximum feasible coordination of transportation services as-

sisted under this section with transportation services assisted by other Government sources.

[(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.

[(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

[(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.]

§ 5309. Capital investment grants

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

(1) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term "new fixed guideway capital project" means an operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

(2) NEW START PROJECT.—The term "new start project" means a new fixed guideway capital project for which the Federal assistance provided or to be provided under this section is $75,000,000 or more.

(3) SMALL START PROJECT.—The term "small start project" means a new fixed guideway capital project for which—

(A) the Federal assistance provided or to be provided under this section is less than $75,000,000; and

(B) the total estimated net capital cost is less than $250,000,000.

(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights-of-way, and relocation assistance, for fixed guideway corridor development for projects in the advanced stages of planning or in project development; and

(2) the development of corridors to support new fixed guideway capital projects under subsections (d) and (e), including protecting rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes, park and ride lots, and other nonvehicular capital improvements that the Secretary may determine would result in increased public transportation usage in the corridor.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not approve a grant under this section unless the Secretary determines that—

(A) the project is part of an approved long-range transportation plan and program of projects required under sections 5203, 5204, and 5306; and

(B) the applicant has, or will have—

(i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

(ii) satisfactory continuing control over the use of the equipment or facilities; and

(iii) the capability and willingness to maintain the equipment or facilities.

(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

(3) GRANTEE REQUIREMENTS.—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

(d) NEW START PROJECTS.—

(1) FULL FUNDING GRANT AGREEMENT.—

(A) IN GENERAL.—A new start project shall be carried out through a full funding grant agreement.

(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving assistance for a new start project that—

(i) is authorized for project development; and

(ii) has been rated as high, medium-high, or medium, in accordance with paragraph (5).

(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a new start project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the project—

(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5203;

(B) is based on the results of an evaluation of the benefits of the project as set forth in paragraph (3); and

(C) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a reduction in existing public transportation services or level of service to operate the project.

(3) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a new start project under paragraph (2)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative):

(A) The cost effectiveness of the project.

(B) The mobility and accessibility benefits of the project, including direct intermodal connectivity with other modes of transportation.

(C) The degree of congestion relief anticipated as a result of the project.

(D) The reductions in energy consumption and air pollution associated with the project.

(E) The economic development effects associated with the project.

(F) The private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private strategies.

(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—In making a determination for a new start project under paragraph (2)(C), the Secretary shall—

(A) require that the proposed project plan provide for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

(B) require that each proposed local source of capital and operating financing is stable, reliable, and available within the project timetable;

(C) consider private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private partnership strategies;

(D) consider the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project; and

(E) consider the elements of the overall proposed public transportation system advanced with 100 percent non-Federal funds.

(5) RATINGS.—In carrying out paragraphs (3) and (4) for a new start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

(e) SMALL START PROJECTS.—

(1) IN GENERAL.—

(A) APPLICABILITY OF REQUIREMENTS.—Except as provided by subparagraph (B), a small start project shall be subject to the requirements of this subsection.

(B) PROJECTS RECEIVING LESS THAN $25,000,000 IN FEDERAL ASSISTANCE.—If the assistance provided under this section for a small start project is less than $25,000,000—

(i) the requirements of this subsection shall not apply to the project if determined appropriate by the Secretary; and

(ii) the Secretary shall utilize special warrants described in subsection (n) to advance the project and provide Federal assistance as appropriate.

(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance for a small start project under this subsection only if the Secretary determines that the project—

(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5203;

(B) is based on the results of an analysis of the benefits of the project as set forth in paragraph (3); and

(C) is supported by an acceptable degree of local financial commitment.

(3) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a small start project under paragraph (2)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative):

(A) The cost effectiveness of the project.

(B) The mobility and accessibility benefits of the project, including direct intermodal connectivity with other modes of transportation.

(C) The degree of congestion relief anticipated as a result of the project.

(D) The economic development effects associated with the project.

(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

(5) RATINGS.—In carrying out paragraphs (3) and (4) for a small start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

(6) GRANTS AND EXPEDITED GRANT AGREEMENTS.—

(A) IN GENERAL.—The Secretary, to the maximum extent practicable, shall provide Federal assistance under this subsection in a single grant. If the Secretary cannot provide such a single grant, the Secretary may execute an expedited grant agreement in order to include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

(B) TERMS OF EXPEDITED GRANT AGREEMENTS.—In executing an expedited grant agreement under this subsection, the Secretary may include in the agreement terms similar to those established under subsection (g)(2)(A).

(C) NOTICE OF PROPOSED GRANTS AND EXPEDITED GRANT AGREEMENTS.—At least 10 days before making a grant award or entering into a grant agreement for a project under this subsection, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate of the proposed grant or expedited grant agreement, as well as the evaluations and ratings for the project.

(7) INCLUSION OF CORRIDOR-BASED CAPITAL PROJECTS.—In this subsection, the term "small start project" includes a corridor-based capital project if—

(A) a majority of the project operates in a separate right-of-way dedicated for transit use during peak hour operations; or

(B) the project represents a substantial investment in a defined corridor as demonstrated by investment in fixed transit facilities and equipment such as substantial transit stations, intelligent transportation systems technology, traffic signal priority, off-board fare collection, and other direct investments in the corridor.

(f) PREVIOUSLY ISSUED LETTER OF INTENT OR GRANT AGREEMENT.—Subsections (d) and (e) do not apply to projects for which the Secretary has issued a letter of intent, entered into an early systems work agreement or a full funding grant agreement, or has been approved to enter final design before the date of enactment of the Public Transportation Act of 2012.

(g) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

(1) LETTERS OF INTENT.—

(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new start project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under section 1108(c), 1108(d), 1501, or 1502(a) of title 31 or an administrative commitment.

(2) FULL FUNDING GRANT AGREEMENTS.—

(A) TERMS.—The Secretary may enter into a full funding grant agreement with an applicant for a grant under this section for a new start project. The agreement shall—

(i) establish the terms of participation by the Government in the project;

(ii) establish the maximum amount of Government financial assistance for the project;

(iii) cover the period of time for completing the project, including, if necessary, a period extending beyond the period of an authorization;

(iv) make timely and efficient management of the project easier according to the laws of the United States; and

(v) establish terms requiring the applicant to repay all Government payments made under the agreement (plus such reasonable interest and penalty charges as are established by the Secretary in the agreement) if the applicant does not carry out the project for reasons within the control of the applicant.

(B) SPECIAL FINANCIAL RULES.—

(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment (contingent on amounts to be specified in law in advance for commitments under this paragraph) to obligate an additional amount from future available budget authority specified in law.

(ii) STATEMENT OF CONTINGENT COMMITMENT.—The full funding grant agreement shall state that the contingent commitment is not an obligation of the Government.

(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in a full funding grant agreement for a new start project shall be sufficient to complete at least one operable segment.

(C) BEFORE AND AFTER STUDY.—

(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

(II) evaluates the consistency of predicted and actual project characteristics and performance; and

(III) identifies sources of differences between predicted and actual outcomes.

(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

(I) SUBMISSION OF PLAN.—An applicant seeking a full funding grant agreement under this paragraph shall submit to the Secretary a complete

plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of the plan shall be included in the agreement as an eligible activity.

(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

(aa) the collection of data on the current transit system of the applicant regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

(cc) collection of data on the transit system of the applicant 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the project; and

(dd) an analysis of the consistency of predicted project characteristics with the data collected under item (cc).

(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible to enter into a full funding grant agreement under this paragraph for a new start project, an applicant shall have collected data on the current transit system of the applicant, according to the plan required under subparagraph (C)(ii), before the beginning of construction of the project. Collection of the data shall be included in the full funding grant agreement as an eligible activity.

(3) EARLY SYSTEMS WORK AGREEMENTS.—

(A) CONDITIONS.—The Secretary may enter into an early systems work agreement with an applicant for a new start project if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe a full funding grant agreement for the project will be made.

(B) CONTENTS.—

(i) IN GENERAL.—A work agreement under this paragraph for a new start project obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary

considers appropriate. The period may extend beyond the period of current authorization.

(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) FAILURE TO CARRY OUT PROJECT.—If, after entering into a work agreement under this paragraph for a new start project, an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

(4) LIMITATION ON AMOUNTS.—

(A) NEW START GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for new start projects may be not more than the greater of the amount authorized under section 5338(b) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsection (m)(2)(B) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for the projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

(5) NOTIFICATION OF CONGRESS.—At least 10 days before issuing a letter of intent or an early systems work agreement under this section, and at least 21 days before entering into a full funding grant agreement under this section, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—

(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of

equipment or facilities, the Secretary shall estimate the net capital project cost of a new fixed guideway capital project. A grant under this section for the project shall be for 80 percent of the net capital project cost unless the grant recipient requests a lower grant percentage.

(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

(3) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital from public or private sources.

(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to request or require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

(5) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(i) UNDERTAKING PROJECTS IN ADVANCE.—

(1) IN GENERAL.—The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the State or local governmental authority applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same manner as other projects under this section.

(2) FINANCING COSTS.—

(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has

shown reasonable diligence in seeking the most favorable financial terms.

(j) AVAILABILITY OF AMOUNTS.—An amount made available or appropriated under section 5338(b) for new fixed guideway capital projects shall remain available for a period of 3 fiscal years after the fiscal year in which the amount is made available or appropriated. Any of such amount that is unobligated at the end of such period shall be rescinded and deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction and prohibited from use as an offset for other spending increases or revenue reductions.

(k) REPORTS ON NEW START PROJECTS.—

(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate a report that includes—

(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Public Transportation Act of 2012; and

(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

(2) BIENNIAL GAO REVIEW.—Beginning 2 years after the date of enactment of the Public Transportation Act of 2012, the Comptroller General of the United States shall—

(A) conduct a biennial review of—

(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

(ii) the Secretary's implementation of such processes and procedures; and

(B) on a biennial basis, report to Congress on the results of such review by May 31.

(l) BEFORE AND AFTER STUDY REPORT.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

(m) LIMITATIONS.—

(1) LIMITATION ON GRANTS.—The Secretary may make a grant or enter into a grant agreement for a new fixed guideway capital project under this section only if the project has been rated as high, medium-high, or medium or the Secretary has issued a special warrant described in subsection (n) in lieu of such ratings.

(2) FISCAL YEARS 2013 THROUGH 2016.—Of the amounts made available or appropriated for fiscal years 2013 through 2016 under section 5338(b)—

(A) $150,000,000 for each fiscal year shall be allocated for small start projects in accordance with subsection (e); and

(B) the remainder shall be allocated for new start projects in accordance with subsection (d).

(3) LIMITATION ON EXPENDITURES.—None of the amounts made available or appropriated under section 5338(b) may be expended on a project that has not been adopted as the locally preferred alternative as part of a long-range transportation plan.

(n) EXPEDITED PROJECT ADVANCEMENT.—

(1) WARRANTS.—The Secretary, to the maximum extent practicable, shall develop and utilize special warrants to advance projects and provide Federal assistance under this section. Special warrants may be utilized to advance new fixed guideway projects under this section without requiring evaluations and ratings described under subsections (d)(5) and (e)(5). Such warrants shall be—

(A) based on current transit ridership, corridor characteristics, and service on existing alignments;

(B) designed to assess distinct categories of projects, such as proposed new service enhancements on existing alignments, new line haul service, and new urban circulator service; and

(C) based on the benefits for proposed projects as set forth in subsections (d)(3) and (e)(3) for the Federal assistance provided or to be provided under this subsection.

(2) NEW PROJECT DEVELOPMENT.—

(A) IN GENERAL.—A project sponsor who requests Federal funding under this section shall apply to the Secretary to begin new project development after a proposed new fixed guideway capital project has been adopted as the locally preferred alternative as part of the metropolitan long-range transportation plan required under section 5303, and funding options for the non-Federal funding share have been identified. The application for new project development shall specify whether the project sponsor is seeking Federal assistance under subsection (d) or (e).

(B) APPLICATIONS.—

(i) NOTICE TO CONGRESS.—Not later than 10 days after the date of receipt of an application for new project development under subparagraph (A), the Secretary shall provide written notice of the application to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(ii) APPROVAL OR DISAPPROVAL.—On the 11th day following the date on which the Secretary provides written notice of an application for new project development under clause (i), the Secretary shall approve or disapprove the application.

(C) PROJECT AUTHORIZATION.—Upon approval of an application to begin new project development, the proposed new fixed guideway capital project shall be authorized and eligible for Federal funding under this section.

(3) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—The Secretary, to the maximum extent practicable, shall issue letters of intent and make early systems work agreements upon issuance of a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) FUNDING AGREEMENTS.—The Secretary shall enter into a full funding grant agreement, expedited grant agreement, or grant, as appropriate, between the Government and the project sponsor as soon as the Secretary determines that the project meets the requirements of subsection (d) or (e).

(5) RECORDS RETENTION.—The Secretary shall adhere to a uniform records retention policy regarding all documentation related to new fixed guideway capital projects.

(o) REGULATIONS.—Not later than 240 days after the date of enactment of the Public Transportation Act of 2012, the Secretary shall issue regulations establishing new program requirements for the programs created under this section, including new evaluation and rating processes for proposed projects under this section.

§ 5310. Bus and bus facilities formula grants

(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist States and local governmental authorities in financing capital projects—

(1) to replace, rehabilitate, and purchase buses and related equipment; and

(2) to construct bus-related facilities.

(b) GRANT REQUIREMENTS.—The requirements of subsections (c) and (d) of section 5307 apply to recipients of grants made under this section.

(c) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

(1) RECIPIENTS.—Eligible recipients under this section are providers of public transportation in urbanized areas that operate fixed route bus services and that do not operate heavy rail, commuter rail, or light rail services.

(2) SUBRECIPIENTS.—A recipient that receives a grant under this section may allocate the amounts provided to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations.

(d) DISTRIBUTION OF GRANT FUNDS.—Grants under this section shall be distributed pursuant to the formula set forth in section 5336 other than subsection (b).

(e) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project, as defined in section 5302(a)(1), shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

(2) REMAINING COSTS.—The remainder of the net project cost shall be provided—

(A) in cash from non-Government sources other than revenues from providing public transportation services;

(B) from revenues derived from the sale of advertising and concessions;

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

(D) from amounts received under a service agreement with a State or local social service agency or private social service organization.

(f) PERIOD OF AVAILABILITY TO RECIPIENTS.—A grant made available under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(g) TRANSFERS OF APPORTIONMENTS.—

(1) TRANSFER TO CERTAIN AREAS.—The chief executive officer of a State may transfer any part of the State's funds made available under this section to urbanized areas of less than 200,000 in population or to rural areas in the State, after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was provided under this section.

(2) TRANSFER TO STATE.—A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its grant funds provided under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas of less than 200,000 in population or to rural areas in the State.

(h) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323(a)(1), 5323(d), 5323(f), 5332, and 5333 apply to this section and to a grant made with funds apportioned under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant under this section.

[§ 5311. Formula grants for other than urbanized areas]

§ 5311. Rural area formula grants

(a) * * *

(b) GENERAL AUTHORITY.—

(1) * * *

* * * * * * *

(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

(A) * * *

* * * * * * *

(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States. *In carrying out such projects, the Secretary shall enter into a competitively selected contract to provide onsite technical assistance to local and regional governments, public transit agencies, and public transportation-related nonprofit and for-profit organizations in rural areas for the purpose of developing training materials and providing*

necessary training assistance to local officials and agencies in rural areas.

* * * * * * *

(5) PROGRAM GOALS.—The goals of this section are—

(A) to enhance the mobility and access of people in rural areas by assisting in the development, construction, operation, improvement, maintenance, and use of public transportation systems and services in rural areas;

(B) to increase the intermodalism of and connectivity among public transportation systems and services within rural areas and to urban areas by providing for maximum coordination of programs and services;

(C) to increase the state of good repair of rural public transportation assets; and

(D) to enhance the mobility and access of people in rural areas by assisting in the development and support of intercity bus transportation.

(c) APPORTIONMENTS.—

[(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

[(A) $8,000,000 for fiscal year 2006.
[(B) $10,000,000 for fiscal year 2007.
[(C) $12,000,000 for fiscal year 2008.
[(D) $15,000,000 for fiscal year 2009.
[(E) $15,000,000 for fiscal year 2010.
[(F) $15,000,000 for fiscal year 2011.
[(G) $15,000,000 for fiscal year 2012.]

(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338 that are not apportioned under paragraph (1)—

(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); [and]

[(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).]

(B) 70 percent shall be apportioned to the States in accordance with paragraph (4); and

(C) 10 percent shall be apportioned to the States in accordance with paragraph (5).

* * * * * * *

(5) APPORTIONMENTS BASED ON PUBLIC TRANSPORTATION SERVICES PROVIDED IN RURAL AREAS.—The Secretary shall apportion to each State an amount equal to the amount apportioned under paragraph (2)(C) as follows:

(A) ½ of such amount multiplied by the ratio that—

(i) the number of public transportation revenue vehicle-miles operated in or attributable to rural areas in that State, as determined by the Secretary; bears to

(ii) the total number of all public transportation revenue vehicle-miles operated in or attributable to rural areas in all States; and

(B) ½ of such amount multiplied by the ratio that—

(i) the number of public transportation unlinked passenger trips operated in or attributable to rural areas in that State, as determined by the Secretary; bears to

(ii) the total number of all public transportation unlinked passenger trips operated in or attributable to rural areas in all States.

* * * * * * *

(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary of Transportation may allow a State to use not more than [15 percent] *10 percent* of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to an area other than an urbanized area.

(f) INTERCITY BUS TRANSPORTATION.—

(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

(A) * * *

(B) capital grants for intercity bus [shelters] *facilities*;

(C) joint-use [stops and depots] *facilities*;

* * * * * * *

(g) GOVERNMENT SHARE OF COSTS.—

(1) * * *

* * * * * * *

(3) REMAINDER.—The remainder of net project costs—

(A) * * *

(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; [and]

(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23[.]*; and*

(D) may be derived from the costs of a private operator's intercity bus service as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under subsection (f), except that this subparagraph shall apply only if the project includes both feeder service and a connecting unsubsidized intercity route segment and if the private operator agrees in writing to the use of its unsubsidized costs as an in-kind match.

* * * * * * *

[§ 5312. Research, development, demonstration, and deployment projects]

§ 5312. Transit research

(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

(1) * * *

* * * * * * *

(4) FUNDING.—The amounts made available under section 5338(c) are available to the Secretary for grants, contracts, cooperative agreements, or other agreements for the purposes of this section and sections 5305 and 5322, as the Secretary considers appropriate.

(b) JOINT PARTNERSHIP PROGRAM FOR DEPLOYMENT OF INNOVATION.—

(1) * * *

* * * * * * *

(5) USE OF REVENUES.—The Secretary shall accept, to the maximum extent practicable, a portion of the revenues resulting from sales of an innovation project funded under this section. Such revenues shall be accounted for separately within the [Mass Transit Account] *Alternative Transportation Account* of the Highway Trust Fund and shall be available to the Secretary for activities under this subsection. Annual revenues that are less than $1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation.

[(c) INTERNATIONAL PUBLIC TRANSPORTATION PROGRAM.—

[(1) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the United States domestic public transportation community about technological innovations available in the international marketplace and activities that may afford domestic businesses the opportunity to become globally competitive in the export of public transportation products and services. Such activities may include—

[(A) development, monitoring, assessment, and dissemination domestically of information about worldwide public transportation market opportunities;

[(B) cooperation with foreign public sector entities in research, development, demonstration, training, and other forms of technology transfer and exchange of experts and information;

[(C) advocacy, in international public transportation markets, of firms, products, and services available from the United States;

[(D) informing the international market about the technical quality of public transportation products and services through participation in seminars, expositions, and similar activities; and

[(E) offering those Federal Transit Administration technical services which cannot be readily obtained from the United States private sector to foreign public authorities planning or undertaking public transportation projects if

the cost of these services will be recovered under the terms of each project.

[(2) COOPERATION.—The Secretary may carry out activities under this subsection in cooperation with other Federal agencies, State or local agencies, public or private nonprofit institutions, government laboratories, foreign governments, or any other organization the Secretary determines is appropriate.

[(3) FUNDING.—The funds available to carry out this subsection shall include revenues paid to the Secretary by any cooperating organization or person. Such revenues shall be available to the Secretary to carry out activities under this subsection, including promotional materials, travel, reception, and representation expenses necessary to carry out such activities. Annual revenues that are less than $1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation. Not later than January 1 of each fiscal year, the Secretary shall publish a report on the activities under this paragraph funded from the account.]

(c) TRANSIT COOPERATIVE RESEARCH PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a public transportation cooperative research program using amounts made available under section 5338(c).

(2) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for the program. The board shall recommend public transportation research, development, and technology transfer activities to be carried out under the program.

(3) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary determines appropriate.

(d) GOVERNMENT SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with that benefit.

[§ 5313. Transit cooperative research program

[(a) COOPERATIVE RESEARCH PROGRAM.—The amounts made available under subsections (a)(5)(C)(iii) and (d)(1) of section 5338 are available for a public transportation cooperative research program. The Secretary of Transportation shall establish an independent governing board for the program. The board shall recommend public transportation research, development, and technology transfer activities the Secretary considers appropriate.

[(b) FEDERAL ASSISTANCE.—The Secretary may make grants to, and cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary decides are appropriate.

[(c) GOVERNMENT'S SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with that benefit.

[§ 5314. National research programs

[(a) PROGRAM.—(1) The amounts made available under section 5338(d) are available to the Secretary of Transportation for grants, contracts, cooperative agreements, or other agreements for the purposes of sections 5312, 5315, and 5322 of this title, as the Secretary considers appropriate.

[(2) The Secretary shall provide public transportation-related technical assistance, demonstration programs, research, public education, and other activities the Secretary considers appropriate to help public transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). To the extent practicable, the Secretary shall carry out this paragraph through a contract with a national nonprofit organization serving individuals with disabilities that has a demonstrated capacity to carry out the activities.

[(3) Not more than 25 percent of the amounts available under paragraph (1) of this subsection is available to the Secretary for special demonstration initiatives, subject to terms the Secretary considers consistent with this chapter, except that section 5333(b) of this title applies to an operational grant financed in carrying out section 5312(a) of this title. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures on complying with the requirements of this chapter.

[(4)(A) The Secretary may undertake a program of public transportation technology development in coordination with affected entities.

[(B) The Secretary shall develop guidelines for cost sharing in technology development projects financed under this paragraph. The guidelines shall be flexible and reflect the extent of technical risk, market risk, and anticipated supplier benefits and payback periods.

[(5) The Secretary may use amounts appropriated under this subsection to supplement amounts available under section 5313(a) of this title, as the Secretary considers appropriate.

[(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

[(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

[(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

[(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

[(ii) is an agency of a State or unit of local government.

[(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

[(D) APPLICATION.—

[(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

[(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

[(I) high incidence of renal disease; and

[(II) limited access to dialysis facilities.

[(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

[(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

[(b) GOVERNMENT'S SHARE.—When there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under subsection (a) or section 5312, the Secretary shall establish a United States Government share consistent with the benefit.

[(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

[(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

[(2) ELIGIBILITY.—An organization shall be eligible to receive a grant under paragraph (1) if the organization—

[(A) focuses significantly on serving the needs of the elderly;

[(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

[(C) has affiliates in a majority of the States;

[(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

[(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

[(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

[(A) gather best practices from throughout the Nation and provide such practices to local communities that are implementing senior transportation programs;

[(B) work with teams from local communities to identify how the communities are successfully meeting the transportation needs of senior citizens and any gaps in services in order to create a plan for an integrated senior transportation program;

[(C) provide resources on ways to pay for senior transportation services;

[(D) create a web site to publicize and circulate information on senior transportation programs;

[(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

[(F) administer the demonstration grant program established under paragraph (4).

[(4) GRANTS AUTHORIZED.—

[(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

[(i) local transportation organizations;

[(ii) State agencies;

[(iii) units of local government; and

[(iv) nonprofit organizations.

[(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

[(i) evaluate the state of transportation services for senior citizens;

[(ii) recognize barriers to mobility that senior citizens encounter in their communities;

[(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for- profit, and for-profit providers of transportation services for senior citizens;

[(iv) identify future transportation needs of senior citizens within local communities; and

[(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

[(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this paragraph based on a fair representation of various geographical locations throughout the United States.

[§ 5315. National transit institute

[(a) ESTABLISHMENT.—The Secretary shall award grants to Rutgers University to conduct a national transit institute.

[(b) DUTIES.—

[(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under subsection (a) shall develop and conduct training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

[(2) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

[(A) intermodal and public transportation planning;

[(B) management;

[(C) environmental factors;

[(D) acquisition and joint use rights-of-way;

[(E) engineering and architectural design;

[(F) procurement strategies for public transportation systems;

[(G) turnkey approaches to delivering public transportation systems;

[(H) new technologies;

[(I) emission reduction technologies;

[(J) ways to make public transportation accessible to individuals with disabilities;

[(K) construction, construction management, insurance, and risk management;

[(L) maintenance;

[(M) contract administration;

[(N) inspection;

[(O) innovative finance;

[(P) workplace safety; and

[(Q) public transportation security.

[(c) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this section shall be provided—

[(1) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or

[(2) when the education and training are paid under subsection (d) of this section, by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

[(d) AVAILABILITY OF AMOUNTS.—Not more than .5 percent of the amounts made available for a fiscal year beginning after September 30, 1991, to a State or public transportation authority in the State to carry out sections 5307 and 5309 of this title is available for expenditure by the State and public transportation authorities in the State, with the approval of the Secretary, to pay not more than 80 percent of the cost of tuition and direct educational expenses related to educating and training State and local transportation employees under this section.

[§ 5316. Job access and reverse commute formula grants

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

[(1) ACCESS TO JOBS PROJECT.—The term "access to jobs project" means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including—

[(A) transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

[(B) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

[(C) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

[(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

[(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term "eligible low-income individual" means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services

Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

[(3) RECIPIENT.—The term "recipient" means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

[(4) REVERSE COMMUTE PROJECT.—The term "reverse commute project" means a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities, including any projects to—

[(A) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and other than urbanized areas to suburban workplaces;

[(B) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

[(C) otherwise facilitate the provision of public transportation services to suburban employment opportunities.

[(5) SUBRECIPIENT.—The term "subrecipient" means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

[(6) WELFARE RECIPIENT.—The term "welfare recipient" means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

[(b) GENERAL AUTHORITY.—

[(1) GRANTS.—The Secretary may make grants under this section to a recipient for access to jobs and reverse commute projects carried out by the recipient or a subrecipient.

[(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

[(c) APPORTIONMENTS.—

[(1) FORMULA.—The Secretary shall apportion amounts made available for a fiscal year to carry out this section as follows:

[(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

[(i) the number of eligible low-income individuals and welfare recipients in each such urbanized area; bears to

[(ii) the number of eligible low-income individuals and welfare recipients in all such urbanized areas.

[(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

[(i) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

[(ii) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

[(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

[(i) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in each State; bears to

[(ii) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in all States.

[(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

[(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

[(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

[(C) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

[(3) EXCEPTIONS.—A State may use funds apportioned under paragraphs (1)(B) and (1)(C)—

[(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or

[(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

[(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

[(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

[(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

[(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

[(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

[(e) TRANSFERS.—

[(1) IN GENERAL.—A State may transfer any funds apportioned to it under subsection (c)(1)(B) or (c)(1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

[(2) LIMITED TO ELIGIBLE PROJECTS.—Any apportionment transferred under this subsection shall be made available only for eligible job access and reverse commute projects as described in this section.

[(3) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

[(f) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

[(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

[(g) COORDINATION.—

[(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

[(2) WITH NONPROFIT PROVIDERS.—A State that transfers funds to an apportionment under section 5336 pursuant to subsection (e) shall certify to the Secretary that any project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

[(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

[(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

[(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

[(h) GOVERNMENT'S SHARE OF COSTS.—

[(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

[(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

[(3) REMAINDER.—The remainder of the net project costs—

[(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

[(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Secu-

rity Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

[(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

[(i) PROGRAM EVALUATION.—

[(1) COMPTROLLER GENERAL.—Beginning one year after the date of enactment of the Federal Public Transportation Act of 2005, and every 2 years thereafter, the Comptroller General shall—

[(A) conduct a study to evaluate the grant program authorized by this section; and

[(B) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

[(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of Federal Public Transportation Act of 2005, the Secretary shall—

[(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipients making grants to subrecipients under this section; and

[(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).

[§ 5317. New freedom program

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

[(1) RECIPIENT.—The term "recipient" means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

[(2) SUBRECIPIENT.—The term "subrecipient" means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

[(b) GENERAL AUTHORITY.—

[(1) GRANTS.—The Secretary may make grants under this section to a recipient for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

[(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

[(c) APPORTIONMENTS.—

[(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

[(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

[(i) the number of individuals with disabilities in each such urbanized area; bears to

[(ii) the number of individuals with disabilities in all such urbanized areas.

[(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

[(i) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in each State; bears to

[(ii) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in all States.

[(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

[(i) the number of individuals with disabilities in other than urbanized areas in each State; bears to

[(ii) the number of individuals with disabilities in other than urbanized areas in all States.

[(2) USE OF APPORTIONED FUNDS.—Funds apportioned under paragraph (1) shall be used for projects as follows:

[(A) Funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more.

[(B) Funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000.

[(C) Funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

[(3) TRANSFERS.—

[(A) IN GENERAL.—A State may transfer any funds apportioned to it under paragraph (1)(B) or (1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

[(B) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to this paragraph shall be made available only for eligible projects selected under this section.

[(C) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

[(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

[(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

[(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

[(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

[(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

[(e) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant under this section shall be subject to all the requirements of section 5310 to the extent the Secretary considers appropriate.

[(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

[(f) COORDINATION.—

[(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

[(2) WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

[(3) PROJECT SELECTION AND PLANNING.—Beginning in fiscal year 2007, a recipient of funds under this section shall certify that—

[(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

[(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

[(g) GOVERNMENT'S SHARE OF COSTS.—

[(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

[(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

[(3) REMAINDER.—The remainder of the net project costs—

[(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

[(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Secu-

rity Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

[(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.]

§ 5317. Coordinated access and mobility program formula grants

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

(1) ELDERLY INDIVIDUAL.—The term "elderly individual" means an individual who is age 65 or older.

(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term "eligible low-income individual" means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902), including any revision required by that section) for a family of the size involved.

(3) JOB ACCESS AND REVERSE COMMUTE PROJECT.—The term "job access and reverse commute project" means a transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.

(4) RECIPIENT.—The term "recipient" means a designated recipient (as defined in section 5307(a)) and a State that directly receives a grant under this section.

(5) SUBRECIPIENT.—The term "subrecipient" means a State or local governmental authority, nonprofit organization, or private operator of public transportation services that receives a grant under this section indirectly through a recipient.

(6) WELFARE RECIPIENT.—The term "welfare recipient" means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

(b) GOALS.—The goals of the program established under this section are to—

(1) improve the accessibility of the Nation's public transportation systems and services;

(2) improve the mobility of or otherwise meet the special needs of elderly individuals, eligible low-income individuals, and individuals with disabilities; and

(3) improve the coordination among all providers of public transportation and human services transportation.

(c) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants under this section to recipients for the following purposes:

(A) For public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

(B) For job access and reverse commute projects carried out by the recipient or a subrecipient.

(C) For new public transportation services, and for public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

(2) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

(3) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

(d) APPORTIONMENTS.—

(1) FORMULA.—The Secretary, using the most recent decennial census data, shall apportion amounts made available for a fiscal year to carry out this section as follows:

(A) 50 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)) for urbanized areas with a population of 200,000 or more in the ratio that—

(i) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in each such urbanized area; bears to

(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in all such urbanized areas.

(B) 25 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

(C) 25 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in rural areas with a population of less than 50,000 in each State; bears to

(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in rural areas with a population of less than 50,000 in all States.

(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

(C) funds apportioned under paragraph (1)(C) shall be used for projects serving rural areas.

(3) EXCEPTIONS.—A State may use funds apportioned under paragraph (1)(B) or (1)(C)—

(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or

(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

(4) MINIMUM APPORTIONMENT.—

(A) IN GENERAL.—The Secretary may establish a minimum apportionment for States and territories under paragraph (1).

(B) LIMITATION.—A minimum apportionment received by a State or territory under this paragraph for a fiscal year may not exceed the total of the fiscal year 2012 apportionments received by the State or territory under sections 5310, 5316, and 5317 (as in effect on the day before the date of enactment of the Public Transportation Act of 2012).

(e) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (d)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (d)(1)(B) or (d)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

(3) SPECIAL RULE.—A recipient of a grant under this section may allocate the amounts provided under the grant to—

(A) a nonprofit organization or private operator of public transportation, if the public transportation service provided under subsection (c)(1) is unavailable, insufficient, or inappropriate; or

(B) in the case of a grant to provide the services described in subsection (c)(1)(A), a governmental authority that—

(i) is approved by the recipient to coordinate services for elderly individuals and individuals with disabilities; or

(ii) certifies that there are not any nonprofit organizations or private operators of public transportation services readily available in the area to provide the services described in subsection (c)(1)(A).

(4) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (d) shall submit to the recipient an application in such form and in accordance with such requirements as the recipient shall establish.

(5) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

(6) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients will be distributed on a fair, equitable, and competitive basis.

(f) GRANT REQUIREMENTS.—With respect to a grant made to provide services described in subsection (c), the Secretary shall apply grant requirements that are consistent with requirements for activities authorized under sections 5310, 5316, and 5317 (as such sections were in effect on the day before the date of enactment of the Public Transportation Act of 2012).

(g) COORDINATION.—

(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

(2) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

(A) the projects selected to receive funding under this section were derived from a locally developed, coordinated public transportation-human services transportation plan;

(B) the plan was developed through a process that included participation by representatives of public, private, and nonprofit transportation and human services providers and participation by the public and appropriate advocacy organizations; and

(C) the planning process provided for consideration of projects and strategies to create or improve regional transportation services that connect multiple jurisdictions.

(h) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary. The recipient may provide additional local matching amounts.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive an increased Government share in accordance with the formula under such section.

(2) OPERATING ASSISTANCE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs that equals 62.5 percent of the Government share provided for under paragraph (1)(B).

(3) REMAINDER.—The remainder of the net project costs—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands transportation program established by section 203 of title 23.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(i) LEASING VEHICLES.—Vehicles and equipment acquired under this section may be leased to a recipient or subrecipient to improve transportation services designed to meet the special needs of elderly individuals, eligible low-income individuals, and individuals with disabilities.

(j) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

(k) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(l) PROGRAM EVALUATION.—Not later than 2 years after the date of enactment of the Public Transportation Act of 2012, and not later than 2 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study to evaluate the grant program authorized by this section, including a description of how grant recipients have coordinated activities carried out under this section with transportation activities carried out by recipients using grants awarded under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.); and

(2) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

* * * * * * *

§ 5319. Bicycle facilities

A project to provide access for bicycles to public transportation facilities, to provide shelters and parking facilities for bicycles in or around public transportation facilities, or to install equipment for transporting bicycles on public transportation vehicles is a capital project eligible for assistance under sections 5307, 5309, and 5311 of this title. [Notwithstanding sections 5307(e), 5309(h), and 5311(g) of this title, a grant of the United States Government under this chapter for a project made eligible by this section is for 90 percent of the cost of the project, except that, if the grant or any portion of the grant is made with funds required to be expended under 5307(d)(1)(K) and the project involves providing bicycle access to public transportation, that grant or portion of that grant shall be at a Federal share of 95 percent.]

[§ 5320. Alternative transportation in parks and public lands

[(a) PROGRAM NAME.—The program authorized by this section shall be known as the Paul S. Sarbanes Transit in Parks Program.

[(b) IN GENERAL.—

[(1) AUTHORIZATION.—

[(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other agreement to carry out a qualified project under this section to enhance the protection of national parks and public lands and increase the enjoyment of those visiting the parks and public lands by—

[(i) ensuring access to all, including persons with disabilities;

[(ii) improving conservation and park and public land opportunities in urban areas through partnering with State and local governments; and

[(iii) improving park and public land transportation infrastructure.

[(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

[(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intra--agency agreement, or other agreement for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

[(3) ALTERNATIVE TRANSPORTATION FACILITIES AND SERVICES.—Projects receiving assistance under this section shall provide alternative transportation facilities and services that complement and enhance existing transportation services in national parks and public lands in a manner that is consistent

with Department of Interior and other public land management policies regarding private automobile access to and in such parks and lands.

[(c) DEFINITIONS.—In this section, the following definitions apply:

[(1) ELIGIBLE AREA.—The term "eligible area" means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

[(A) a unit of the National Park System;

[(B) a unit of the National Wildlife Refuge System;

[(C) a recreational area managed by the Bureau of Land Management;

[(D) a recreation area managed by the Bureau of Reclamation; and

[(E) a unit of the National Forest System.

[(2) FEDERAL LAND MANAGEMENT AGENCY.—The term "Federal land management agency" means a Federal agency that manages an eligible area.

[(3) ALTERNATIVE TRANSPORTATION.—The term "alternative transportation" means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service. Such term also includes a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft).

[(4) QUALIFIED PARTICIPANT.—The term "qualified participant" means—

[(A) a Federal land management agency; or

[(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other governmental or nongovernmental participant.

[(5) QUALIFIED PROJECT.—The term "qualified project" means a planning or capital project in or in the vicinity of an eligible area that—

[(A) is an activity described in section 5302(a)(1), 5303, 5304, 5305, or 5309(b);

[(B) involves—

[(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of the Federal Public Transportation Act of 2005 with clean fuel vehicles; or

[(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

[(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

[(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

[(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

[(F) is any other alternative transportation project that—

[(i) enhances the environment;

[(ii) prevents or mitigates an adverse impact on a natural resource;

[(iii) improves Federal land management agency resource management;

[(iv) improves visitor mobility and accessibility and the visitor experience;

[(v) reduces congestion and pollution (including noise pollution and visual pollution); or

[(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

[(d) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

[(1) technical assistance in alternative transportation;

[(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

[(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

[(e) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

[(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(b)(2)(J) to administer this section and to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

[(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this chapter or any other provision of law.

[(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 25 percent of the total amount made available to carry out this section under section 5338(b)(2)(J) for any fiscal year.

[(4) TRANSFERS TO LAND MANAGEMENT AGENCIES.—The Secretary may transfer amounts available under paragraph (1) to the appropriate Federal land management agency to pay necessary costs of the agency for such activities described in paragraph (1) in connection with activities being carried out under this section.

[(f) PLANNING PROCESS.—In undertaking a qualified project under this section—

[(1) if the qualified participant is a Federal land management agency—

[(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

[(i) the metropolitan planning provisions under section 5303;

[(ii) the statewide planning provisions under section 5304; and

[(iii) the public participation requirements under section 5307(d); and

[(B) in the case of a qualified project that is at a unit of the National Park System, the planning process shall be consistent with the general management plans of the unit of the National Park System; and

[(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

[(A) comply with the metropolitan planning provisions under section 5303;

[(B) comply with the statewide planning provisions under section 5304;

[(C) comply with the public participation requirements under section 5307(d); and

[(D) consult with the appropriate Federal land management agency during the planning process.

[(g) COST SHARING.—

[(1) GOVERNMENT'S SHARE.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the Government's share of the net project cost to be provided to a qualified participant under this section.

[(2) CONSIDERATIONS.—In establishing the Government's share of the net project cost to be provided under this section, the Secretary shall consider—

[(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

[(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

[(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

[(D) the clear and direct benefit to the qualified participant; and

[(E) any other matters that the Secretary considers appropriate to carry out this section.

[(3) SPECIAL RULE.—Notwithstanding any other provision of law, funds appropriated to any Federal land management agency may be counted toward the remainder of the net project cost.

[(h) SELECTION OF QUALIFIED PROJECTS.—

[(1) IN GENERAL.—The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

[(2) CONSIDERATIONS.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

[(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

[(B) the location of the qualified project, to ensure that the selected qualified projects—

[(i) are geographically diverse nationwide; and

[(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

[(C) the size of the qualified project, to ensure that there is a balanced distribution;

[(D) the historical and cultural significance of a qualified project;

[(E) safety;

[(F) the extent to which the qualified project would—

[(i) enhance livable communities;

[(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

[(iii) reduce congestion; and

[(iv) improve the mobility of people in the most efficient manner; and

[(G) any other matters that the Secretary of the Interior considers appropriate to carry out this section, including—

[(i) visitation levels;

[(ii) the use of innovative financing or joint development strategies; and

[(iii) coordination with gateway communities.

[(i) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

[(1) IN GENERAL.—When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

[(A) the qualified participant applies for the payment;

[(B) the Secretary approves the payment; and

[(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

[(2) FINANCING COSTS.—

[(A) IN GENERAL.—The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

[(B) LIMITATION ON AMOUNT OF INTEREST.—The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

[(C) CERTIFICATION.—The qualified participant shall certify, in a manner satisfactory to the Secretary, that the

qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

[(j) RELATIONSHIP TO OTHER LAWS.—

[(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

[(2) OTHER REQUIREMENTS.—A qualified participant under this section shall be subject to any other requirements that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

[(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

[(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement in accordance with section 5309(g); and

[(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

[(k) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

[(l) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

[(1) GRANTS AND OTHER ASSISTANCE.—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other agreements for research, development, and deployment of new technologies in eligible areas that will—

[(A) conserve resources;

[(B) prevent or mitigate adverse environmental impact;

[(C) improve visitor mobility, accessibility, and enjoyment; and

[(D) reduce pollution (including noise pollution and visual pollution).

[(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

[(3) FUNDING.—Grants, cooperative agreements, contracts, and other agreements under paragraph (1) shall be awarded from amounts allocated under subsection (e)(1).

[(m) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a State infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

[(n) REPORTS.—

[(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

[(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

[(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

[(C) the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

[(2) ANNUAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(k)(1).]

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[§ 5322. Human resource programs]

§ 5322. Training and technical assistance programs

(a) IN GENERAL.—The Secretary of Transportation may undertake, or make grants and contracts for, [programs that address human resource needs as they apply to public transportation activities] *programs that address training and outreach needs as they apply to public transportation activities, and programs that provide public transportation-related technical assistance to providers of public transportation services*. A program may include—

(1) * * *

* * * * * * *

(3) research on public transportation personnel and training needs; [and]

(4) training and assistance for minority business opportunities[.]*; and*

(5) technical assistance provided through national nonprofit organizations with demonstrated capacity and expertise in a particular area of public transportation policy.

* * * * * * *

(c) NATIONAL TRANSIT INSTITUTE.—

(1) GRANTS AND CONTRACTS.—The Secretary may award grants or enter into contracts with a public university to establish a National Transit Institute to support training and educational programs for Federal, State, and local transportation employees engaged or to be engaged in Government-aid public transportation work.

(2) EDUCATION AND TRAINING.—The National Transit Institute shall provide education and training to employees of State and local governments at no cost when the education and training is related to a responsibility under a Government program.

(d) TECHNICAL ASSISTANCE.—The Secretary may provide public transportation-related technical assistance under this section as follows:

(1) To help public transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through a competitively selected contract or cooperative agreement with a national nonprofit organization serving indi-

viduals with disabilities that has a demonstrated capacity to carry out technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act.

(2) To help public transportation providers comply with human services transportation coordination requirements and to enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation through a competitively selected contract or cooperative agreement with a national nonprofit organization that has a demonstrated capacity to carry out technical assistance, training, and support services related to complying with such requirements.

(3) To help public transportation providers meet the transportation needs of elderly individuals through a competitively selected contract or cooperative agreement with a national nonprofit organization serving elderly individuals that has a demonstrated capacity to carry out such activities.

(4) To provide additional technical assistance, mobility management services, volunteer support services, training, and research that the Secretary determines will assist public transportation providers meet the goals of this section.

(e) FUNDING.—Training and outreach programs and technical assistance activities performed under this section shall be paid for with administrative funds made available under section 5338(c).

§ 5323. General provisions on assistance

(a) * * *

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(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

(1) * * *

* * * * * * *

[(4) PILOT PROGRAM FOR URBANIZED AREAS.—

[(A) IN GENERAL.—The Secretary shall establish a pilot program to reimburse not to exceed 10 eligible recipients for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307.

[(B) REPORT.—Not later than July 31, 2008, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status and effectiveness of the pilot program established under subparagraph (A).]

* * * * * * *

(i) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—

(1) * * *

* * * * * * *

(3) COSTS INCURRED BY PROVIDERS OF PUBLIC TRANSPORTATION BY VANPOOL.—

(A) LOCAL MATCHING SHARE.—The local matching share provided by a recipient of assistance for a capital project

under this chapter may include any amounts expended by a provider of public transportation by vanpool for the acquisition of rolling stock to be used by such provider in the recipient's service area, excluding any amounts the provider may have received in Federal, State, or local government assistance for such acquisition.

(B) USE OF REVENUES.—A private provider of public transportation by vanpool may use revenues it receives in the provision of public transportation service in the service area of a recipient of assistance under this chapter that are in excess of the provider's operating costs for the purpose of acquiring rolling stock, if the private provider enters into a legally binding agreement with the recipient that requires the provider to use the rolling stock in the recipient's service area.

(C) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) PRIVATE PROVIDER OF PUBLIC TRANSPORTATION BY VANPOOL.—The term "private provider of public transportation by vanpool" means a private entity providing vanpool services in the service area of a recipient of assistance under this chapter using a commuter highway vehicle or vanpool vehicle.

(ii) COMMUTER HIGHWAY VEHICLE; VANPOOL VEHICLE.—The term "commuter highway vehicle" or "vanpool vehicle" means any vehicle—

(I) the seating capacity of which is at least 6 adults (not including the driver); and

(II) at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.

(4) INCENTIVES FOR COMPETITIVELY CONTRACTED SERVICE.—

(A) ELIGIBILITY.—Subject to subparagraph (C), a recipient of assistance under this chapter that meets the targets under subparagraph (B) for competitively contracted service shall be eligible, at the request of the recipient, for a Federal share of 90 percent for the capital cost of buses and bus-related facilities and equipment purchased with financial assistance made available under this chapter.

(B) TARGET.—To qualify for the competitively contracted service incentive program under this paragraph, a public transit agency or governmental unit shall competitively contract for at least 20 percent of its fixed route bus service. The percentage of competitively contracted service shall be calculated by determining the ratio of competitively contracted service vehicles operated in annual maximum service to total vehicles operated in annual maximum service.

(C) MAINTENANCE OF EFFORT.—A public transit agency or governmental unit shall be eligible for an increased Federal share under this paragraph only if the amount of State and local funding provided to the affected public transit agency or governmental unit for the capital cost of buses and bus-related facilities and equipment will not be less

than the average amount of funding for such purposes provided during the 3 fiscal years preceding the date of enactment of this paragraph.

(D) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) COMPETITIVELY CONTRACTED SERVICE.—The term "competitively contracted service" means fixed route bus transportation service purchased by a public transit agency or governmental unit from a private transportation provider based on a written contract.

(ii) VEHICLES OPERATED IN ANNUAL MAXIMUM SERVICE.—The term "vehicles operated in annual maximum service" means the number of transit vehicles operated to meet the annual maximum service requirement during the peak season of the year, on the week and day that maximum service is provided.

(j) BUY AMERICA.—(1) * * *

* * * * * * *

(10) APPLICATION OF BUY AMERICA TO TRANSIT PROGRAMS.—The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this chapter.

(11) ADDITIONAL WAIVER REQUIREMENTS.—

(A) IN GENERAL.—If the Secretary receives a request for a waiver under this section, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request.

(B) NOTICE REQUIREMENTS.—A notice provided under subparagraph (A) shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation

(C) DETAILED JUSTIFICATION.—If the Secretary issues a waiver under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the waiver that addresses the public comments received under subparagraph (A) and shall ensure that such justification is published before the waiver takes effect.

* * * * * * *

(q) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—A recipient of assistance under this chapter may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes.

* * * * * * *

§ 5325. Contract requirements

(a) * * *

* * * * * * *

(h) GRANT PROHIBITION.—A grant awarded under this chapter or the **[**Federal Public Transportation Act of 2005**]** *Public Transportation Act of 2012* may not be used to support a procurement that uses an exclusionary or discriminatory specification.

* * * * * * *

(k) VETERANS EMPLOYMENT.—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a preference in the hiring or referral of laborers to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract.

§ 5326. Private sector participation

(a) GENERAL PURPOSES.—In the interest of fulfilling the general purposes of this chapter under section 5301(f), the Secretary shall—

(1) better coordinate public and private sector-provided public transportation services; and

(2) promote more effective utilization of private sector expertise, financing, and operational capacity to deliver costly and complex new fixed guideway capital projects.

(b) ACTIONS TO PROMOTE BETTER COORDINATION BETWEEN PUBLIC AND PRIVATE SECTOR PROVIDERS OF PUBLIC TRANSPORTATION.—The Secretary shall—

(1) provide technical assistance to recipients of Federal transit grant assistance on practices and methods to best utilize private providers of public transportation; and

(2) educate recipients of Federal transit grant assistance on laws and regulations under this chapter that impact private providers of public transportation.

(c) ACTIONS TO PROVIDE TECHNICAL ASSISTANCE FOR ALTERNATIVE PROJECT DELIVERY METHODS.—Upon request by a sponsor of a new fixed guideway capital project, the Secretary shall—

(1) identify best practices for public-private partnerships models in the United States and in other countries;

(2) develop standard public-private partnership transaction model contracts; and

(3) perform financial assessments that include the calculation of public and private benefits of a proposed public-private partnership transaction.

§ 5327. Project management oversight

(a) * * *

* * * * * * *

(c) LIMITATIONS.—

(1) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts **[**to make contracts**]** for the activities described in paragraph (2):

(A) * * *

* * * * * * *

(D) 0.5 percent of amounts made available to carry out section [5310] *5317*.

* * * * * * *

[(F) 0.5 percent of amounts made available to carry out section 5320.]

(F) 1 percent of amounts made available to carry out section 5337.

(G) 0.75 percent of amounts made available to carry out section 5317.

(2) ACTIVITIES.—Paragraph (1) shall apply to the following:

(A) * * *

(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under sections 5305, 5307, 5309, [5310] *5317*, [5311, and 5320] *and 5311*.

* * * * * * *

§ 5328. Project review

(a) * * *

* * * * * * *

[(c) PROGRAM OF INTERRELATED PROJECTS.—(1) In this subsection, a program of interrelated projects includes the following:

[(A) the New Jersey Urban Core Project (as defined in title III of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 2087)).

[(B) the San Francisco Bay Area Rail Extension Program, consisting of at least an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, a program element designated by a change to the Metropolitan Transportation Commission Resolution No. 1876, and a program element financed completely with non-Government amounts, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

[(C) the Los Angeles Metro Rail Minimum Operable Segment-3 Program, consisting of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

[(i) one line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

[(ii) one line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

[(iii) the East Side Extension, consisting of an initial line of approximately 3 miles, with at least 2 stations, beginning at Union Station and running generally east.

[(D) the Baltimore-Washington Transportation Improvement Program, consisting of 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station, and Baltimore-Washington Airport, MARC extensions to Frederick and Waldorf, Maryland,

and an extension of the Washington Subway system to Largo, Maryland.

[(E) the Tri-County Metropolitan Transportation District of Oregon Light Rail Program, consisting of the locally preferred alternative for the Westside Light Rail Project, including system related costs, contained in the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101-516, 104 Stat. 2155), and defined in House Report 101-584, the Hillsboro extension to the Westside Light Rail Project contained in that Act, and the locally preferred alternative for the South/North Corridor Project.

[(F) the Queens Local/Express Connector Program, consisting of the locally preferred alternative for the connection of the 63d Street tunnel extension to the Queens Boulevard lines, the bell-mouth part of the connector that will allow for future access by commuter rail trains and other subway lines to the 63d Street tunnel extension, planning elements for connecting the upper and lower levels to commuter and subway lines in Long Island City, and planning elements for providing a connector for commuter rail transportation to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

[(G) the Dallas Area Rapid Transit Authority light rail elements of the New System Plan, consisting of the locally preferred alternative for the South Oak Cliff corridor, the South Oak Cliff corridor extension-Camp Wisdom, the West Oak Cliff corridor-Westmoreland, the North Central corridor-Park Lane, the North Central corridor-Richardson, Plano, and Garland extensions, the Pleasant Grove corridor-Buckner, and the Carrollton corridors-Farmers Branch and Las Colinas terminal.

[(H) other programs designated by law or the Secretary.

[(2) Consistent with the time requirements of subsection (a) of this section or as otherwise provided by law, the Secretary shall make at least one full financing grant agreement for each program described in paragraph (1) of this subsection. The agreement shall include commitments to advance each of the applicant's program elements (in the program of interrelated projects) through the appropriate program review stages as provided in subsection (a) or as otherwise provided by law and to provide Government financing for each element. The agreement may be changed to include design and construction of a particular element.

[(3) When reviewing a project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent consideration expedites carrying out the project.

[(4) Including a program element not financed by the Government in a program of interrelated projects does not impose Government requirements that otherwise would not apply to the element.]

* * * * * * *

§ 5330. State safety oversight

(a) * * *

[(b) GENERAL AUTHORITY.—The Secretary of Transportation may withhold not more than 5 percent of the amount required to be ap-

propriated for use in a State or urbanized area in the State under section 5307 of this title for a fiscal year beginning after September 30, 1994, if the State in the prior fiscal year has not met the requirements of subsection (c) of this section and the Secretary decides the State is not making an adequate effort to comply with subsection (c).]

(b) GENERAL AUTHORITY.—The Secretary may require that up to 100 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 for a fiscal year beginning after September 30, 2013, be utilized on capital safety improvement and state of good repair projects for the benefit of fixed guideway transportation systems in such State or urbanized area in the State before any other transit capital project is undertaken, if—

(1) the State in the prior fiscal year has not met the requirements of subsection (c); or

(2) the Secretary has certified that the State safety oversight agency (as defined in section 5336(k)(1)(B)) does not have adequate technical capacity, personnel resources, and authority under relevant State law to perform the agency's responsibilities described in that section.

* * * * * * *

§ 5333. Labor standards

(a) * * *

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307-5312, [5316,] 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and [5338(b)] *5338(a)* of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307-5312, [5316,] 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and [5338(b)] *5338(a)* shall specify the arrangements.

* * * * * * *

§ 5336. Apportionment of appropriations for formula grants

(a) * * *

* * * * * * *

(d) DATE OF APPORTIONMENT.—The Secretary of Transportation shall—

(1) apportion amounts appropriated under [subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338] *section 5338(a)(2)(B)* of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

* * * * * * *

[(i) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338—

[(1) one percent shall be apportioned, in fiscal year 2006 and each fiscal year thereafter, to certain urbanized areas with

populations of less than 200,000 in accordance with subsection (j); and

[(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).]

(i) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(B)—

(1) 2 percent shall be apportioned to certain urbanized areas with populations of less than 200,000 in accordance with subsection (j);

(2) 1 percent shall be apportioned to applicable States for operational support and training costs of State safety oversight agencies and personnel employed by or under contract to such agencies in accordance with subsection (k); and

(3) any amount not apportioned under paragraphs (1) and (2) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

* * * * * * *

[(k) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

[(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

[(2) REPORT.—

[(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

[(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

[(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

[(ii) the optimal number and size of any incentive programs;

[(iii) what types of systems should compete for various incentives;

[(iv) how incentives should be distributed; and

[(v) the likely effects of the incentive funding system.]

(k) STATE SAFETY OVERSIGHT AGENCIES FORMULA.—

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

(A) APPLICABLE STATES.—The term "applicable States" means States that—

(i) have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; or

(ii) are designing or constructing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.

(B) STATE SAFETY OVERSIGHT AGENCIES.—The term "State safety oversight agency" means a designated State authority that has responsibility—

(i) for requiring, reviewing, approving, and monitoring safety program plans under section 5330(c)(1);

(ii) for investigating hazardous conditions and accidents on fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

(iii) for requiring action to correct or eliminate those conditions.

(2) APPORTIONMENT.—

(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (i)(2) shall be apportioned among applicable States under a formula to be established by the Secretary. Such formula shall take into account factors of fixed guideway revenue vehicle miles, fixed guideway route miles, and fixed guideway vehicle passenger miles attributable to all rail fixed guideway systems not subject to regulation by the Federal Railroad Administration within each applicable State.

(B) RECIPIENTS OF APPORTIONED AMOUNTS.—Amounts apportioned under the formula established pursuant to subparagraph (A) shall be made available as grants to State safety oversight agencies. Such grants are subject to uniform administrative requirements for grants and cooperative agreements to State and local governments under part 18 of title 49, Code of Federal Regulations, and are subject to the requirements of this chapter as the Secretary determines appropriate.

(C) USE OF FUNDS.—A State safety oversight agency may use funds apportioned under subparagraph (A) for program operational and administrative expenses, including employee training activities, that assist the agency in carrying out its responsibilities described in paragraph (1)(B).

(D) CERTIFICATION PROCESS.—

(i) DETERMINATIONS.—The Secretary shall determine whether or not each State safety oversight agency has adequate technical capacity, personnel resources, and authority under relevant State law to perform the agency's defined responsibilities described in paragraph (1)(B).

(ii) ISSUANCE OF CERTIFICATIONS AND DENIALS.—The Secretary shall—

(I) issue a certification to each State safety oversight agency that the Secretary determines under clause (i) has adequate technical capacity, personnel resources, and authority; and

(II) issue a denial of certification to each State safety oversight agency that the Secretary determines under clause (i) does not have adequate technical capacity, personnel resources, and authority, and provide the agency with a written explanation of the reasons for the denial.

(E) ANNUAL REPORT.—On or before July 1 of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on—

(i) the amount of funds apportioned to each applicable State; and

(ii) the certification status of each State safety oversight agency, including what steps an agency that has been denied certification must take in order to be so certified.

[§ 5337. Apportionment based on fixed guideway factors]

§ 5337. Fixed guideway modernization program

(a) PROGRAM GOALS.—The goals of the fixed guideway modernization program are—

(1) to rehabilitate, maintain, and preserve the Nation's fixed guideway public transportation systems;

(2) to reduce the maintenance backlog and increase the state of good repair of the Nation's fixed guideway public transportation systems; and

(3) to increase the overall ridership on fixed guideway public transportation systems.

(b) GENERAL AUTHORITY.—The Secretary may make grants to eligible recipients under this section to assist State and local government authorities in financing capital projects to modernize eligible fixed guideway systems.

[(a)**]** *(c)* DISTRIBUTION.—The Secretary shall apportion amounts made available for fixed guideway modernization **[**under section 5309 for each of fiscal years 2005 through 2012 as follows:**]** *for a fiscal year as follows:*

(1) * * *

* * * * * * *

[(b)**]** *(d)* TOTAL AMOUNTS NOT AVAILABLE.—In a fiscal year in which the total amounts authorized under subsection (a)(1) and (2) of this section are not available, the Secretary shall reduce on a proportionate basis the apportionments of all urbanized areas eligible under subsection (a)(1) or (2) to adjust for the amount not available.

[(c)**]** *(e)* NEW JERSEY TRANSIT CORPORATION.—Rail modernization amounts allocated to the New Jersey Transit Corporation under this section may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail transportation, regardless of which urbanized area generates the financing.

[(d) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section—

[(1) remains available for 3 years after the fiscal year in which the amount is apportioned; and

[(2) that is unobligated at the end of the 3-year period shall be reapportioned for the next fiscal year among urbanized areas eligible under subsection (a)(1)-(3) of this section using the apportionment formula of this section.**]**

(f) AVAILABILITY OF AMOUNTS.—An amount appropriated under this section shall remain available for a period of 3 fiscal years

after the fiscal year in which the amount is appropriated. Any of such amount that is unobligated at the end of such period shall be reapportioned for the next fiscal year among eligible recipients in accordance with subsection (c).

[(e)] *(g)* ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—

(1) * * *

* * * * * * *

[(f)] *(h)* ADJUSTMENT.—For purposes of this section, an urbanized area with a population of 55,997, according to the most recent decennial census, shall be treated as an urbanized area eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997. For the purposes of subsection (e)(1), the number of fixed guideway revenue vehicle miles of service and number of fixed guideway route miles for that urbanized area as of the date of enactment of the Federal Public Transportation Act of 2005 shall be considered to have been used to determine apportionments for fiscal year 1997.

(i) UNDERTAKING PROJECTS IN ADVANCE.—

(1) IN GENERAL.—When a recipient obligates all amounts apportioned to it under this section and then carries out a part of a project described in this section without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under this section if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out that part, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) REQUIREMENT FOR APPROVAL OF APPLICATIONS.—The Secretary may approve an application under paragraph (1) only if an authorization for this section is in effect for the fiscal year to which the application applies.

(3) INTEREST PAYMENTS.—The cost of carrying out that part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out this part. However, the amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(j) GRANT REQUIREMENTS.—A grant under this section shall be subject to the requirements of subsections (c), (d), (e), (h), (i), and (m) of section 5307.

[§ 5338. Authorizations

[(a) FISCAL YEAR 2005.—

[(1) FORMULA GRANTS.—

[(A) TRUST FUND.—For fiscal year 2005, $3,499,927,776 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, and 5311 and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $499,989,824 for fiscal year 2005 to carry out sections 5307, 5308, 5310, and 5311 and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

[(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

[(i) $4,811,150 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

[(ii) $5,208,000 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of intercity, fixed-route over-the- road buses;

[(iii) $1,686,400 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of over-the-road buses providing other than intercity, fixed-route service;

[(iv) $94,526,689 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

[(v) $250,889,588 shall be available to provide financial assistance for other than urbanized areas under section 5311;

[(vi) $3,593,195,773 shall be available to provide financial assistance for urbanized areas under section 5307; and

[(vii) $49,600,000 shall be available to carry out the clean fuels program under section 5308.

[(2) JOB ACCESS AND REVERSE COMMUTE.—

[(A) TRUST FUND.—For fiscal year 2005, $108,500,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $15,500,000 for fiscal year 2005 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

[(3) CAPITAL PROGRAM GRANTS.—

[(A) TRUST FUND.—For fiscal year 2005, $2,898,100,224 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to

be appropriated $414,014,176 for fiscal year 2005 to carry out sections 5308, 5309, and 5318 and section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

[(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

[(i) $49,600,000 shall be available to carry out the clean fuels program under section 5308;

[(ii) $669,600,000 shall be available for capital projects to replace, rehabilitate, and purchase bus and related equipment and to construct bus-related facilities under section 5309;

[(iii) $1,204,684,800 shall be available for fixed guideway modernization under section 5309;

[(iv) $1,437,829,600 shall be available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems under section 5309;

[(v) $10,213,632 shall be available for capital projects in Alaska and Hawaii under section 5309;

[(vi) $2,976,000 shall be available to carry out bus testing under section 5318; and

[(vii) $4,811,200 shall be available to carry out the fuel cell bus and bus facilities program under section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

[(4) PLANNING.—

[(A) TRUST FUND.—For fiscal year 2005, $63,364,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $9,052,000 for fiscal year 2005 to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

[(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

[(i) 82.72 percent shall be allocated for metropolitan planning under section 5305; and

[(ii) 17.28 percent shall be allocated for State planning under section 5305.

[(5) RESEARCH.—

[(A) TRUST FUND.—For fiscal year 2005, $47,740,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $6,820,000 for fiscal year 2005 to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

[(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

[(i) not less than $3,968,000 shall be available to carry out programs under the National Transit Institute under section 5315, of which not more than $992,000 shall be available to carry out section 5315(a)(16);

[(ii) not less than $5,208,000 shall be available to provide rural transportation assistance under section 5311(b)(2);

[(iii) not less than $8,184,000 shall be available to carry out transit cooperative research programs under section 5313(a);

[(iv) not less than $2,976,000 shall be available to carry out Project Action under section 5312; and

[(v) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

[(6) UNIVERSITY TRANSPORTATION RESEARCH.—

[(A) TRUST FUND.—For fiscal year 2005, $5,208,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5505.

[(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated $744,000 for fiscal year 2005 to carry out section 5505.

[(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

[(i) $1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(A), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005; and

[(ii) $1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(F), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

[(D) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

[(7) ADMINISTRATION.—

[(A) TRUST FUND.—For fiscal year 2005, $67,704,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

[(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated $9,672,000 for fiscal year 2005 to carry out section 5334.

[(8) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.

[(b) FORMULA AND BUS GRANTS.—

[(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.) —

[(A) $6,979,931,000 for fiscal year 2006;

[(B) $7,262,775,000 for fiscal year 2007;

[(C) $7,872,893,000 for fiscal year 2008;

[(D) $8,360,565,000 for fiscal year 2009;

[(E) $8,360,565,000 for fiscal year 2010;

[(F) $8,360,565,000 for fiscal year 2011; and

[(G) $8,360,565,000 for fiscal year 2012.

[(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

[(A) $95,000,000 for fiscal year 2006, $99,000,000 for fiscal year 2007, $107,000,000 for fiscal year 2008, and $113,500,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5305;

[(B) $3,466,681,000 for fiscal year 2006, $3,606,175,000 for fiscal year 2007, $3,910,843,000 for fiscal year 2008, and $4,160,365,000 for each of fiscal years 2009 through 2012 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

[(C) $43,000,000 for fiscal year 2006, $45,000,000 for fiscal year 2007, $49,000,000 for fiscal year 2008, and $51,500,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5308;

[(D) $1,391,000,000 for fiscal year 2006, $1,448,000,000 for fiscal year 2007, $1,570,000,000 for fiscal year 2008, and $1,666,500,000 for each of fiscal years 2009 through 2012 shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(m)(2)(B);

[(E) $822,250,000 for fiscal year 2006, $855,500,000 for fiscal year 2007, $927,750,000 for fiscal year 2008, and $984,000,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5309(m)(2)(C);

[(F) $112,000,000 for fiscal year 2006, $117,000,000 for fiscal year 2007, $127,000,000 for fiscal year 2008, and $133,500,000 for each of fiscal years 2009 through 2012 shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

[(G) $388,000,000 for fiscal year 2006, $404,000,000 for fiscal year 2007, $438,000,000 for fiscal year 2008, and $465,000,000 for each of fiscal years 2009 through 2012 shall be available to provide financial assistance for other than urbanized areas under section 5311;

[(H) $138,000,000 for fiscal year 2006, $144,000,000 for fiscal year 2007, $156,000,000 for fiscal year 2008, and $164,500,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5316;

[(I) $78,000,000 for fiscal year 2006, $81,000,000 for fiscal year 2007, $87,500,000 for fiscal year 2008, and

$92,500,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5317;

[(J) $22,000,000 for fiscal year 2006, $23,000,000 for fiscal year 2007, $25,000,000 for fiscal year 2008, and $26,900,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5320;

[(K) $3,500,000 for each of fiscal years 2006 through 2012 shall be available to carry out section 5335;

[(L) $25,000,000 for each of fiscal years 2006 through 2012 shall be available to carry out section 5339;

[(M) $388,000,000 for fiscal year 2006, $404,000,000 for fiscal year 2007, $438,000,000 for fiscal year 2008, and $465,000,000 for each of fiscal years 2009 through 2012 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

[(N) $7,500,000 for fiscal year 2006, $7,600,000 for fiscal year 2007, $8,300,000 for fiscal year 2008, and $8,800,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

[(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(m)(2)(A)—

[(1) $1,503,000,000 for fiscal year 2006;
[(2) $1,566,000,000 for fiscal year 2007;
[(3) $1,700,000,000 for fiscal year 2008;
[(4) $1,809,250,000 for fiscal year 2009;
[(5) $2,000,000,000 for fiscal year 2010;
[(6) $2,000,000,000 for fiscal year 2011; and
[(7) $1,600,000,000 for fiscal year 2012.

[(d) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—

[(1) IN GENERAL.—There is authorized to be appropriated to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5506, and national research programs under sections 5312, 5313, 5314, and 5322 $58,000,000 for fiscal year 2006, $61,000,000 for fiscal year 2007, $65,500,000 for fiscal year 2008, $69,750,000 for each of fiscal years 2009 through 2011 and $44,000,000 for fiscal year 2012 of which—

[(A) $9,000,000 for fiscal year 2006, $9,300,000 for fiscal year 2007, $9,600,000 for fiscal year 2008, and $10,000,000 for each of fiscal years 2009, 2010, and 2011 shall be allocated to carry out transit cooperative research programs under section 5313;

[(B) $4,300,000 shall be allocated for each fiscal year to carry out programs under the National Transit Institute under section 5315, of which not more than $1,000,000 for each fiscal year shall be used to carry out section 5315(b)(2)(P);

[(C) $7,000,000 shall be allocated for each fiscal year to carry out the university centers program under section 5506;

[(D) $3,000,000 shall be allocated for each fiscal year to carry out Project Action under section 5314(a)(2);

[(E) $1,000,000 shall be allocated for each fiscal year to carry out the National Technical Assistance Center under section 5314(c); and

[(F) any funds made available under this paragraph that are not allocated under subparagraphs (A) through (E) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322.

[(2) UNIVERSITY CENTERS PROGRAM.—

[(A) ALLOCATION.—Of the amounts allocated under paragraph (1)(C), the following amounts shall be available to provide transportation research, training, and curriculum development:

[(i) $2,000,000 for each of fiscal years 2006 through 2012 for the University of Tennessee--Knoxville National Transportation Research Center.

[(ii) $1,500,000 for each of fiscal years 2006 through 2012 for Texas A&M University--Texas Transportation Institute.

[(iii) $1,000,000 for each of fiscal years 2006 through 2012 for Morgan State University.

[(iv) $400,000 for each of fiscal years 2006 and 2007 for the Small Urban and Rural Transit Center at North Dakota State University.

[(v) $550,000 for each of fiscal years 2006 and 2007 and $650,000 for each of fiscal years 2008 through 2012 for the University Transportation Center at the University of Alabama.

[(vi) $450,000 for each of fiscal years 2006 and 2007 and $550,000 for each of fiscal years 2008 through 2012 for the Injury Control Research Center at the University of Alabama Birmingham.

[(vii) $550,000 for each of fiscal years 2006 and 2007 and $650,000 for each of fiscal years 2008 through 2012 for the Jackson State University Intermodal Transportation Institute at the Jackson State University.

[(viii) $550,000 for each of fiscal years 2006 and 2007 and $650,000 for each of fiscal years 2008 through 2012 for the University Transportation Center at the University of Denver/Mississippi State University.

[(B) REQUIREMENTS.—The universities specified in subparagraph (A) shall be considered to be university transportation centers under section 5506 and shall be subject to the requirements of subsections (b), (h), (i), (k), (l), and (m) of such section.

[(3) ADDITIONAL AUTHORIZATIONS.—

[(A) RESEARCH.—Of amounts authorized to be appropriated under paragraph (1) for fiscal year 2012, the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

[(B) UNIVERSITY CENTERS PROGRAM.—

[(i) FISCAL YEAR 2012.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for fiscal year 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such clause.

[(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) for the project or activity for fiscal year 2012 or any subsequent fiscal year.

[(e) ADMINISTRATION.—There is authorized to be appropriated to carry out section 5334—

[(1) $82,000,000 for fiscal year 2006;
[(2) $85,000,000 for fiscal year 2007;
[(3) $92,500,000 for fiscal year 2008;
[(4) $98,500,000 for fiscal year 2009;
[(5) $98,911,000 for fiscal year 2010;
[(6) $98,911,000 for fiscal year 2011; and
[(7) $98,713,000 for fiscal year 2012.

[(f) GRANTS AS CONTRACTUAL OBLIGATIONS.—

[(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project.

[(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

[(g) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b), (c), and (d) shall remain available until expended.

[§ 5339. Alternatives analysis program

[(a) GRANTS AND AGREEMENTS.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities to develop alternatives analyses as defined by section 5309(a)(1).

[(b) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity.

[(c) AVAILABILITY OF FUNDS.—An amount made available or appropriated under section 5338(b)(2)(L) for this section shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.

[§ 5340. Apportionments based on growing States and high density States formula factors

[(a) DEFINITION.—In this section, the term "State" shall mean each of the 50 States of the United States.

[(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(M), the Secretary shall apportion—

[(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

[(2) 50 percent to States and urbanized areas in accordance with subsection (d).

[(c) GROWING STATE APPORTIONMENTS.—

[(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

[(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

[(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

[(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

[(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

[(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

[(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

[(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

[(A) the total land area of the State (in square miles); multiplied by

[(B) 370; multiplied by (C)(i) the population of the State in urbanized areas; divided by

[(ii) the total population of the State.

[(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

[(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

[(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.]

§ 5338. Authorizations

(a) FORMULA AND BUS GRANTS.—

(1) IN GENERAL.—There shall be available from the Alternative Transportation Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5317, 5330, 5335, and 5337 $8,400,000,000 for each of fiscal years 2013 through 2016.

(2) ALLOCATION OF FUNDS.—Amounts made available under paragraph (1) shall be allocated as follows:

(A) $126,000,000 for each of fiscal years 2013 through 2016 shall be available to carry out section 5305.

(B) $4,578,000,000 for each of fiscal years 2013 through 2016 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas and State safety oversight agencies under sections 5307 and 5336(k).

(C) $840,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for States and local governmental authorities to replace, reha-

bilitate, and purchase buses and related equipment and to construct bus-related facilities under section 5310. Of such amount, $3,000,000 shall be available for each fiscal year for bus testing under section 5318.

(D) $672,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for rural areas under section 5311.

(E) $504,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for recipients and subrecipients to provide coordinated access and mobility public transportation projects and services under section 5317.

(F) $3,500,000 for each of fiscal years 2013 through 2016 shall be available to carry out section 5335. Such amount shall be made available from funds allocated in accordance with section 5336 before the apportionments under subsection 5336(i) are carried out.

(G) $1,680,000,000 for each of fiscal years 2013 through 2016 shall be made available and allocated in accordance with section 5337 to provide financial assistance for State and local government authorities to finance capital projects to modernize eligible fixed guideway systems.

(b) CAPITAL INVESTMENT GRANTS.—There is authorized to be appropriated to carry out section 5309(m)(2) $1,955,000,000 for each of fiscal years 2013 through 2016.

(c) RESEARCH, TRAINING AND OUTREACH, AND TECHNICAL ASSISTANCE.—There is authorized to be appropriated to carry out the transit research program under section 5312 and the training and outreach, National Transit Institute, and technical assistance activities authorized by section 5322, $45,000,000 for each of fiscal years 2013 through 2016. Such amounts shall remain available until expended.

(d) ADMINISTRATION.—There is authorized to be appropriated to carry out sections 5326 and 5334 $98,000,000 for each of fiscal years 2013 through 2016.

(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Alternative Transportation Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project.

(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

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CHAPTER 55—INTERMODAL TRANSPORTATION

SUBCHAPTER I—GENERAL

Sec.
5501. National Intermodal Transportation System policy.

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[5505. National university transportation centers.]

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SUBCHAPTER I—GENERAL

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[§ 5505. National university transportation centers

[(a) IN GENERAL.—

[(1) ESTABLISHMENT AND OPERATION.—The Secretary of Transportation shall make grants under this section to eligible nonprofit institutions of higher learning to establish and operate national university transportation centers.

[(2) ROLE OF CENTERS.—The role of each center shall be to advance significant transportation research on critical national transportation issues and to expand the workforce of transportation professionals.

[(b) APPLICABILITY OF REQUIREMENTS.—A grant received by an eligible nonprofit institution of higher learning under this section shall be available for the same purposes, and shall be subject to the same terms and conditions, as a grant made to a nonprofit institution of higher learning under section 5506.

[(c) ELIGIBLE NONPROFIT INSTITUTION OF HIGHER LEARNING DEFINED.—In this section, the term "eligible nonprofit institution of higher learning" means each of the following:

[(1) University of Alaska.

[(2) Marshall University, West Virginia, on behalf of a consortium of West Virginia colleges and universities.

[(3) University of Minnesota.

[(4) University of Missouri, Rolla.

[(5) Northwestern University.

[(6) Oklahoma Transportation Center.

[(7) Portland State University, in partnership with the University of Oregon, Oregon State University, and the Oregon Institute of Technology.

[(8) University of Vermont.

[(9) Western Transportation Institute at Montana State University.

[(10) University of Wisconsin.

[(d) GRANTS.—The Secretary shall make a grant under this section to each eligible nonprofit institution of higher learning in an amount $2,000,000 in fiscal year 2005 and $3,500,000 in each of fiscal years 2006 through 2009 to carry out this section.]

§ 5506. University transportation research

(a) * * *

(b) OBJECTIVES.—Grants received under this section shall be used by nonprofit institutions of higher learning to advance significantly the state-of-the-art in transportation research and expand

the workforce of transportation professionals through the following programs and activities:

(1) RESEARCH.—Basic and applied research *that is consistent with section 503 of title 23*, the products of which are judged by peers or other experts in the field of transportation to advance the body of knowledge in transportation.

* * * * * * *

(c) [REGIONAL, TIER I, AND TIER II CENTERS] *REGIONAL AND STANDARD CENTERS*.—

(1) [REGIONAL AND TIER I CENTERS] *REGIONAL AND STANDARD CENTERS*.—For each of fiscal years [2005 through 2009] *2013 through 2016*, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate—

(A) * * *

(B) [10 Tier I] *20 standard* university transportation centers.

[(2) TIER II CENTERS.—

[(A) For each of fiscal years 2006 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate 22 Tier II university transportation centers.

[(B) The Tier II centers consist of the following:

[(i) University of Arkansas, Mack-Blackwell Rural Transportation Center.

[(ii) University of California, Davis.

[(iii) California State University, San Bernardino.

[(iv) Cleveland State University, Work Zone Safety Institute.

[(v) University of Connecticut.

[(vi) University of Delaware in Newark.

[(vii) University of Detroit Mercy (including the coalition partners of the university).

[(viii) George Mason University.

[(ix) Hampton University, Eastern Seaboard Intermodal Transportation Applications Center (ESITAC).

[(x) Kansas State University.

[(xi) Louisiana State University, LTRC-TTEC.

[(xii) University of Massachusetts Amherst.

[(xiii) Michigan Technological University.

[(xiv) University of Nevada Las Vegas.

[(xv) North Carolina State University, Center for Transportation and the Environment.

[(xvi) Northwestern University.

[(xvii) Ohio Higher Education Transportation Consortium University of Akron.

[(xviii) University of Rhode Island.

[(xix) University of Toledo.

[(xx) Utah State University.

[(xxi) Youngstown State University.

[(xxii) University of Memphis.]

[(3)] *(2)* LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

[(4)] *(3)* LIMITATION.—A nonprofit institution of higher learning may not directly receive a grant under this section for a fiscal year for more than one university transportation center.

(d) COMPETITIVE SELECTION PROCESS.—

(1) * * *

* * * * * * *

(3) OPPORTUNITY ANNOUNCEMENT.—

(A) PUBLIC DISCLOSURE.—All funding opportunities under this section shall be publically announced and shall be posted on the Department of Transportation's Web site and on Grants.gov. Any announcement shall, at a minimum, include a detailed description of how applications will be evaluated and a list of any specific research areas, educational objectives, or technology transfer objectives expected to be addressed by an application.

(B) INPUT.—In developing an opportunity announcement under this paragraph, the Secretary shall solicit the input of transportation stakeholders, including academic researchers, State highway and transportation departments, local and regional governments, private industry, the Administrator of the Research and Innovative Technology Administration, and Administrators of other relevant Department of Transportation agencies.

(4) PROPOSAL REVIEW AND SELECTION.—

(A) IN GENERAL.—The Secretary shall make award decisions under subsection (c)(1) through a peer-reviewed, merit-based process. The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities under this paragraph as the Secretary determines are appropriate.

(B) PEER-REVIEW.—

(i) IN GENERAL.—The Secretary, acting through the National Research Council of the National Academy of Sciences, shall establish a peer-review process in which all proposals shall be reviewed by an external committee of experts.

(ii) SELECTION.—The external committee of experts shall be selected and convened by the Transportation Research Board of the National Research Council based on—

(I) their specific knowledge of transportation research fields or their broad knowledge of transportation research fields;

(II) their knowledge of associated educational activities;

(III) their broad knowledge of the community of transportation practitioners; and

(IV) to the extent possible, diverse representation within the review group.

(iii) DUTIES.—The external committee of experts shall evaluate proposals based on the degree to which they advance the objectives in subsection (b), the selection criteria in paragraph (2) of this subsection, and any additional review criteria set forth in the opportunity

announcements described in paragraph (3) of this subsection.

(iv) REPORT.—The external committee of experts shall issue a report, published and made available to the public by the Transportation Research Board, summarizing the evaluation process and explaining its findings.

(v) COST.—The Secretary shall pay for any necessary expenses associated with peer-review with a portion of the funds assigned to the Research and Innovative Technology Administration for administration of this section.

(C) SECRETARIAL REVIEW.—The Secretary, in consultation with the Administrator of the Research and Innovative Technology Administration and Administrators of any other relevant Department of Transportation agencies, shall make final award decisions. The Secretary's decision shall consider—

(i) the findings of the committee under subparagraph (B);

(ii) the portfolio of other programs funded under this section;

(iii) the objectives set forth in subsection (b);

(iv) the criteria set forth in paragraph (2);

(v) the details included in the opportunity announcement required under paragraph (3); and

(vi) other current proposals and previously funded proposals.

(D) TRANSPARENCY.—

(i) IN GENERAL.—The Secretary shall provide to each applicant of a proposal copies of reviews by the committee under subparagraph (B) and any other materials used in the evaluation process (with any reviewer identifying information redacted) of the applicant's proposal.

(ii) PUBLIC AVAILABILITY.—The Secretary shall make results of the review process available to all applicants and to the public on the Department's website.

(iii) REPORT.—The Secretary shall issue a public report that includes, at a minimum—

(I) the results of the peer-review process, including the findings of the committee under subparagraph (B); and

(II) the reasons for the Secretary's final decision, including a description of—

(aa) the context in which the proposal was reviewed; and

(bb) how the findings of the committee under subparagraph (B) were used in reaching the final decision.

(e) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

(1) COMPETITION.—Not later than **[**March 31, 2006, and not later than March 31st of every 4th year thereafter**]** *180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter*, the

Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 regional university transportation centers referred to in subsection (c)(1)(A).

* * * * * * *

(5) AMOUNT OF GRANTS.—The Secretary shall make a grant to a nonprofit institution of higher learning to establish and operate a regional university transportation center of—

(A) * * *

(B) $2,000,000 for each of fiscal years 2006 through 2008; [and]

(C) $2,250,000 for fiscal year 2009[.]*; and*

(D) $3,500,000 for each of fiscal years 2013 through 2016.

(6) RESEARCH REQUIREMENT.—

(A) COMPREHENSIVE TRANSPORTATION SAFETY.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under subsection (c) for the purpose of furthering the objectives described in subsection (b) in the field of comprehensive transportation safety.

(B) INTELLIGENT TRANSPORTATION SYSTEMS.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under subsection (c) (other than the center described in subparagraph (A)) for the purpose of furthering the objectives described in subsection (b) in the field of intelligent transportation systems.

(7) COMPETITIVE PROCESS.—The Secretary shall make award decisions through a competitive process that follows the requirements described in subsections (d)(3) and (d)(4) and incorporates the additional selection criteria set forth in paragraph (2) of this subsection.

(f) [TIER I] *STANDARD* UNIVERSITY TRANSPORTATION CENTERS.—

(1) COMPETITION.—Not later than [June 30, 2006, and not later than June 30 of every 4th year thereafter] *180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter*, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the [10 Tier I] *20 standard* university transportation centers referred to in subsection (c)(1)(B).

* * * * * * *

(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a [Tier I] *standard* university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

* * * * * * *

(5) AMOUNT OF GRANTS.—The Secretary shall make a grant of [$1,000,000] *$2,000,000* for each of fiscal years [2005 through 2009] *2013 through 2016* to a nonprofit institution of

higher learning to establish and operate a [Tier I] *standard* university transportation center.

[(g) TIER II UNIVERSITY TRANSPORTATION CENTERS.—

[(1) SELECTION.—The Secretary shall make grants to the nonprofit institutions of higher learning to establish and operate the 22 Tier II university transportation centers referred to in subsection (c)(2)(B).

[(2) AMOUNT OF GRANTS.—The Secretary shall make a grant of $500,000 for each of fiscal years 2006 through 2009 to a nonprofit institution of higher learning to establish and operate a Tier II university transportation center.]

[(h)] *(g)* SUPPORT OF NATIONAL STRATEGY FOR SURFACE TRANSPORTATION RESEARCH.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall provide assurances satisfactory to the Secretary that the research and education activities of its university transportation center will support the national strategy for surface transportation research, as identified by—

(1) * * *

(2) the programs of the National Research and Technology Program of the Federal Transit Administration.

[(i) MAINTENANCE OF EFFORT.—

[(1) IN GENERAL.—In order to be]

(h) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall enter into an agreement with the Secretary to ensure that the institution will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

[(2) SPECIAL RULE.—Nothing in paragraph (1) requires a nonprofit institution of higher learning designated as a Tier II university transportation center to maintain total expenditures as described in paragraph (1) in excess of the amount of the grant awarded to the institution.]

[(j)] *(i)* FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section shall be [50] *65* percent of such costs. The non-Federal share may include funds provided to a recipient under section [503] *503A*, 504(b), or 505 of title 23.

[(k)] *(j)* PROGRAM COORDINATION.—

(1) * * *

* * * * * * *

[(l)] *(k)* PROGRAM ADMINISTRATION.—The Secretary shall carry out this section acting through the Administrator of the Research and Innovative Technology Administration.

[(m)] *(l)* LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary for a period of 2 years after the last day of the fiscal year for which such funds are authorized.

(m) ANNUAL REPORT.—The Secretary shall submit to the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of

the Senate, and make available to the public on the Department's Web site, an annual report on the university transportation center program under this section detailing the activities of the regional and standard centers during the previous year and how such activities reflect the priorities of the strategic plan required under section 508(a) of title 23.

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SUBTITLE IV—INTERSTATE TRANSPORTATION

* * * * * * *

PART A—RAIL

* * * * * * *

CHAPTER 109—LICENSING

* * * * * * *

§ 10909. Solid waste rail transfer facility land-use exemption

(a) * * *

(b) LAND-USE EXEMPTION PROCEDURES.—Not later than 90 days after the date of enactment of the **[**Clean Railroad Act of 2008,**]** *Clean Railroads Act of 2008,* the Board shall publish procedures governing the submission and review of applications for solid waste rail transfer facility land-use exemptions. At a minimum, the procedures shall address—

(1) * * *

* * * * * * *

(e) EXISTING FACILITIES.—**[**Upon the granting of petition from the State**]** *Upon the granting of a petition from the State* in which a solid waste rail transfer facility is operating as of the date of enactment of the Clean Railroads Act of 2008 by the Board, the facility shall submit a complete application for a siting permit to the Board pursuant to the procedures issued pursuant to subsection (b). No State may enforce a law, regulation, order, or other requirement affecting the siting of a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 until the Board has approved or denied a permit pursuant to subsection (c).

* * * * * * *

PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

* * * * * * *

CHAPTER 135—JURISDICTION

SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

* * * * * * *

§ 13506. Miscellaneous motor carrier transportation exemptions

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over—

(1) * * *

* * * * * * *

(4) a motor vehicle *in interstate or intrastate commerce* controlled and operated by a farmer and transporting—

(A) * * *

* * * * * * *

CHAPTER 139—REGISTRATION

Sec.
13901. Requirement for registration.

* * * * * * *
13909. Availability of information.

[§ 13901. Requirement for registration

[A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service.**]**

§ 13901. Requirement for registration

(a) IN GENERAL.—A person may provide the following transportation or services only if the person is registered under this chapter to provide the transportation or service:

(1) Transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135.

(2) Service as a freight forwarder subject to jurisdiction under subchapter III of chapter 135.

(3) Service as a broker for transportation subject to jurisdiction under subchapter I of chapter 135.

(b) REGISTRATION NUMBERS.—

(1) IN GENERAL.—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for the transportation or service. In the case of a person registered by the Secretary to provide more than one type of transportation or service, the Secretary shall issue a separate registration number to the person for each authority to provide transportation or service.

(2) TRANSPORTATION OR SERVICE TYPE INDICATOR.—A registration number issued under paragraph (1) shall include an indicator of the type of transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

(c) SPECIFICATION OF AUTHORITY.—For each agreement to provide transportation or service for which registration is required under

this chapter, the registrant shall specify, in writing, the authority under which the person is providing the transportation or service.

§ 13902. Registration of motor carriers

(a) MOTOR CARRIER GENERALLY.—

[(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

[(A) this part and the applicable regulations of the Secretary and the Board;

[(B)(i) any safety regulations imposed by the Secretary;

[(ii) the duties of employers and employees established by the Secretary under section 31135; and

[(iii) the safety fitness requirements established by the Secretary under section 31144;

[(C) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus; and

[(D) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.

[(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after that person—

[(A) provides evidence of participation in an arbitration program and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

[(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c);

[(C) provides evidence that it has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; and

[(D) discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration.]

(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier using self-propelled vehicles the motor carrier owns, rents, or leases if the Secretary finds that the person—

(A) is willing and able to comply with—

(i) this part and the applicable regulations of the Secretary and the Board;

(ii) any safety regulations imposed by the Secretary;

(iii) the duties of employers and employees established by the Secretary under section 31135;

(iv) the safety fitness requirements established by the Secretary under section 31144;

(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or a successor regulation, for transportation provided by an over-the-road bus; and

(vi) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138;

(B) has demonstrated, through successful completion of a proficiency examination, to be developed by the Secretary by regulation, knowledge of the requirements and regulations described in subparagraph (A);

(C) has disclosed to the Secretary any relationship involving common stock, common ownership, common control, common management, or common familial relationship between that person and any other motor carrier in the 3-year period preceding the date of the filing of the application for registration; and

(D) has been issued a Department of Transportation number under section 31134.

(2) REGISTRATION FOR HOUSEHOLD GOODS MOTOR CARRIERS.—

(A) ADDITIONAL REQUIREMENTS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after the person—

(i) provides evidence of participation in an arbitration program under section 14708 and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

(ii) identifies the motor carrier's tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c);

(iii) provides evidence that the person has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage;

(iv) discloses any relationship involving common stock, common ownership, common control, common management, or common familial relationships between the person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration;

(v) demonstrates that the person is willing and able to comply with the household goods consumer protection rules of the Secretary; and

(vi) demonstrates, through successful completion of a proficiency examination, to be developed by the Secretary by regulation, knowledge of the requirements and regulations described in this subparagraph.

(B) HOUSEHOLD GOODS AUDITS.—

(i) IN GENERAL.—The Secretary shall require, by regulation, each registrant described in subparagraph (A) to undergo a household goods audit during the 180-day period beginning 1 year after the date of issuance of a provisional registration to the registrant.

(ii) REGULATIONS.—

(I) DEADLINE.—The Secretary shall issue regulations under clause (i) not later than 2 years after the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

(II) ISSUANCE OF STANDARDS.—The regulations shall include standards for household goods audits.

(iii) CONTENTS.—The Secretary shall ensure that the standards issued under clause (ii)(II) require evidence demonstrating that a registrant described in subparagraph (A)—

(I) has consistently adhered to the household goods regulations of the Secretary;

(II) has consistently adhered to the requirements of its tariff;

(III) has not wrongfully withheld the household goods of a customer;

(IV) has not had a pattern of substantiated customer service complaints filed against it; and

(V) has complied with all relevant arbitration requirements.

(C) CORRECTIVE ACTION PLAN.—

(i) IN GENERAL.—If a registrant described in subparagraph (A) fails a household goods audit, the registrant may submit to the Secretary for approval a corrective action plan to address deficiencies identified in the audit. The registrant shall submit the plan during the 60-day period beginning on the date the registrant is notified of the results of the audit.

(ii) DEADLINE FOR APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove a corrective action plan submitted under clause (i) not later than 60 days after the date of submission of the plan.

(iii) ASSESSMENT OF IMPLEMENTATION OF CORRECTIVE ACTION PLAN.—If the Secretary approves a corrective action plan submitted by a registrant under clause (i), the Secretary shall determine, during the 1-year period beginning on the date of such approval, whether the registrant has carried out the plan satisfactorily.

(D) PROVISIONAL REGISTRATION.—

(i) IN GENERAL.—Any registration issued under subparagraph (A) shall be designated as a provisional registration until the audit required by subparagraph (B) is completed.

(ii) REQUIREMENT FOR ISSUANCE OF PERMANENT REGISTRATION.—A provisional registration issued to a registrant under subparagraph (A) shall become permanent after the registrant—

(I) passes the household goods audit required under subparagraph (B); or

(II) implements to the satisfaction of the Secretary a corrective action plan under subparagraph (C).

(iii) REVOCATION OF PROVISIONAL REGISTRATION.—If a registrant fails a household goods audit required under subparagraph (B) or does not implement to the satisfaction of the Secretary a corrective action plan under subparagraph (C), the Secretary shall revoke the provisional registration of the registrant.

(E) REAPPLYING FOR REGISTRATION.—

(i) IN GENERAL.—Nothing in this paragraph permanently prohibits a person from reapplying for registration to provide transportation of household goods as a household goods motor carrier.

(ii) LIMITATION.—If the Secretary revokes the provisional registration of a person under this paragraph, the person shall be required to wait at least 1 year before reapplying for a registration to provide transportation of household goods as a household goods motor carrier.

* * * * * * *

(6) SEPARATE REGISTRATION REQUIRED.—A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.

* * * * * * *

(g) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—A motor carrier registered under this chapter—

(1) may only provide transportation of property with—

(A) self-propelled motor vehicles owned or leased by the motor carrier; or

(B) interchanges, as permitted under regulations issued by the Secretary and subject to requirements that the originating carrier physically transports the cargo at some point and retains liability for the cargo and payment of interchanged carriers; and

(2) may not arrange such transportation unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as the case may be.

[(g)**]** *(h)* MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term "motor carrier" includes foreign motor private carriers.

[§ 13903. Registration of freight forwarders

[(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.

[(b) REGISTRATION AS CARRIER REQUIRED.—The freight forwarder may provide transportation as the carrier itself only if the freight

forwarder also has registered to provide transportation as a carrier under this chapter.

[§ 13904. Registration of brokers

[(a) IN GENERAL.—The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

[(b) REGISTRATION AS CARRIER REQUIRED.—

[(1) IN GENERAL.—The broker may provide the transportation itself only if the broker also has been registered to provide the transportation as a motor carrier under this chapter.

[(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

[(c) REGULATIONS TO PROTECT SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle.

[(d) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.]

§ 13903. Registration of freight forwarders

(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person—

(1) is qualified by experience to act as a freight forwarder; and

(2) is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary.

(b) FINANCIAL SECURITY REQUIREMENTS.—A registration issued under subsection (a) shall remain in effect only as long as the freight forwarder is in compliance with section 13906(c).

(c) EXPERIENCE OR TRAINING REQUIREMENT.—A freight forwarder shall employ, as an officer, an individual who—

(1) has at least 3 years of relevant experience; or

(2) provides the Secretary with satisfactory evidence of completion of relevant training.

(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.

§ 13904. Registration of brokers

(a) IN GENERAL.—The Secretary shall register a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person—

(1) is qualified by experience to act as a broker for transportation; and

(2) is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

(b) FINANCIAL SECURITY REQUIREMENTS.—A registration issued under subsection (a) shall remain in effect only as long as the broker for transportation is in compliance with section 13906(b).

(c) EXPERIENCE OR TRAINING REQUIREMENT.—A broker shall employ, as an officer, an individual who—

(1) has at least 3 years of relevant experience; or

(2) provides the Secretary with satisfactory evidence of completion of relevant training.

(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—

(1) IN GENERAL.—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.

(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier.

(e) REGULATIONS TO PROTECT MOTOR CARRIERS AND SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of motor carriers and shippers by motor vehicle.

(f) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance (or both) as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

§ 13905. Effective periods of registration

(a) * * *

* * * * * * *

[(c) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.]

(c) EFFECTIVE PERIOD.—

(1) IN GENERAL.—Except as provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.

(2) REISSUANCE OF REGISTRATION.—Not later than 4 years after the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter. Such registration shall expire not later than 5 years after the date of such renewal and may be further renewed as provided under this chapter.

(3) REQUIREMENT FOR INFORMATION UPDATE.—

(A) IN GENERAL.—The Secretary shall require a motor carrier, freight forwarder, or broker to update its registration information under this chapter within 30 days of any change in address, other contact information, officers, proc-

ess agent, or other essential information as determined by the Secretary and published in the Federal Register.

(B) MOTOR CARRIERS OF PASSENGERS.—In addition to the requirements of subparagraph (A), the Secretary shall require a motor carrier of passengers to update its registration information, including numbers of vehicles, annual mileage, and individuals responsible for compliance with Federal safety regulations quarterly for the first 2 years after being issued a registration under section 13902.

(d) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—

[(1) IN GENERAL.—On application of the registrant, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may (A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Board (including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus), or a condition of its registration; and (B) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder: (i) for failure to pay a civil penalty imposed under chapter 5, 51, 149, or 311 of this title; or (ii) for failure to arrange and abide by an acceptable payment plan for such civil penalty, within 90 days of the time specified by order of the Secretary for the payment of such penalty. Subparagraph (B) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.]

(1) APPLICATIONS.—On application of the registrant, the Secretary may deny, suspend, amend, or revoke a registration.

(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

(A) deny, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

(i) this part;

(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or a successor regulation, for transportation provided by an over-the-road bus; or

(iii) a condition of its registration;

(B) deny, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure to—

(i) pay a civil penalty imposed under chapter 5, 51, 149, or 311 of this title; or

(ii) arrange and abide by an acceptable payment plan for such civil penalty, within 90 days of the time specified by order of the Secretary for the payment of such penalty; and

(C) deny, suspend, amend, or revoke any part of a registration of a motor carrier following a determination by the Secretary that the motor carrier failed to disclose in its application for registration a material fact relevant to its willingness and ability to comply with—

(i) this part;

(ii) an applicable regulation or order of the Secretary or the Board; or

(iii) a condition of its registration.

(3) LIMITATION.—Paragraph (2)(B) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.

[(2)**]** *(4)* REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and opportunity for public comment, shall issue regulations to provide for the suspension, amendment, or revocation of a registration under this part for failure to pay a civil penalty as provided in **[**paragraph (1)(B)**]** *paragraph (2)(B)*.

(e) PROCEDURE.—Except on application of the registrant *or if the Secretary determines that the registrant has failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C)*, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

(1) * * *

* * * * * * *

§ 13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders

(a) * * *

[(b) BROKER REQUIREMENTS.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

[(c) FREIGHT FORWARDER REQUIREMENTS.—

[(1) LIABILITY INSURANCE.—The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

[(2) FREIGHT FORWARDER INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary

a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

[(3) EFFECTIVE PERIOD.—The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.]

(b) BROKER FINANCIAL SECURITY REQUIREMENTS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

(i) subject to the review by the surety provider, the broker consents to the payment;

(ii) in the case the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii) and the claim is reduced to a judgment against the broker.

(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

(i) respond to the claim on or before the 30th day following receipt of the notice; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

(C) COSTS AND ATTORNEYS FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorneys fees.

(3) MINIMUM FINANCIAL SECURITY.—A broker subject to the requirements of this section shall provide financial security of $100,000, regardless of the number of branch offices or sales agents of the broker.

(4) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

(B) the Secretary shall immediately post such notification on the public Internet Web site of the Department of Transportation.

(5) SUSPENSION.—The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of the broker falls below the amount required under this subsection.

(6) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a broker registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall—

(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);

(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

(i) all uncontested claims received during such period; or

(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

(7) PENALTIES.—

(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed

under this subsection, the surety provider shall be ineligible to provide the financial security of a broker for 5 years.

(8) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

(9) FINANCIAL SECURITY AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amounts of the financial security required under this subsection to determine whether the amounts are sufficient to provide adequate financial security, and shall be authorized to increase the amounts, if necessary, based upon that determination.

(c) FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

(ii) in the case the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii) and the claim is reduced to a judgment against the freight forwarder.

(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

(i) respond to the claim on or before the 30th day following receipt of the notice; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

(C) COSTS AND ATTORNEYS FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorneys fees.

(3) FREIGHT FORWARDER INSURANCE.—

(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards to be prescribed by the Secretary.

(B) LIABILITY INSURANCE.—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against the freight forwarder for—

(i) bodily injury to, or death of, an individual, or

(ii) loss of, or damage to, property (other than property referred to in subparagraph (C)),

resulting from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder when providing transfer, collection, or delivery service under this part.

(C) CARGO INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary that will pay an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

(4) MINIMUM FINANCIAL SECURITY.—Each freight forwarder subject to the requirements of this section shall provide financial security of $100,000, regardless of the number of branch offices or sales agents of the freight forwarder.

(5) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

(B) the Secretary shall immediately post such notification on the public Internet Web site of the Department of Transportation.

(6) SUSPENSION.—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter if the available financial security of the freight forwarder falls below the amount required under this subsection.

(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall—

(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

(i) all uncontested claims received during such period; or

(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

(8) PENALTIES.—

(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide the financial security of a freight forwarder for 5 years.

(9) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

(10) FINANCIAL SECURITY AND INSURANCE AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amounts of the financial security and insurance required under this subsection to determine whether the amounts are sufficient to provide adequate financial security, and shall be authorized to increase the amounts, if necessary, based upon that determination.

* * * * * * *

§ 13908. Registration and other reforms

(a) * * *

* * * * * * *

(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as

possible cover the costs of processing the registration [but shall not exceed $300].

* * * * * * *

§ 13909. Availability of information

The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including—

(1) the names and addresses of the principals of each entity holding such registration;

(2) the status of such registration; and

(3) the electronic address of the entity's surety provider for the submission of claims.

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CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

Sec.
14901. General civil penalties.
* * * * * * *
14916. Unlawful brokerage activities.
* * * * * * *

§ 14916. Unlawful brokerage activities

(a) PROHIBITED ACTIVITIES.—A person may provide interstate brokerage services as a broker only if the person—

(1) is registered under, and in compliance with, section 13904; and

(2) has satisfied the financial security requirements under section 13906.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) a non-vessel-operating common carrier (as defined in section 40102 of title 46);

(2) an ocean freight forwarder (as defined in section 40102 of title 46);

(3) a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations; or

(4) an indirect air carrier holding a Standard Security Program approved by the Transportation Security Administration, when arranging for inland transportation as part of an international through movement involving ocean transportation between the United States and a foreign port.

(c) CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable—

(1) to the United States Government for a civil penalty in an amount not to exceed $10,000 for each violation; and

(2) to the injured party for all valid claims incurred without regard to amount.

(d) LIABLE PARTIES.—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally—

(1) to any corporate entity or partnership involved; and

(2) to the individual officers, directors, and principals of such entities.

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SUBTITLE V—RAIL PROGRAMS

PART A—SAFETY

Chapter Sec.
201. General 20101
* * * * * * *

PART B—ASSISTANCE

* * * * * * *
[223. Capital Grants for Class II and Class III Railroads ....22301]
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229. Project development and review 22901
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PART A—SAFETY

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CHAPTER 201—GENERAL

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SUBCHAPTER I—GENERAL

* * * * * * *

§ 20116. Rulemaking process

No rule or order issued by the Secretary under this part shall be effective if it incorporates by reference a code, rule, standard, requirement, or practice issued by an association or other entity that is not an agency of the Federal Government, unless *(1)* the date on which the code, rule, standard, requirement, or practice was adopted is specifically cited in the rule or order, or *(2)* the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part.

* * * * * * *

§ 20120. Enforcement report

(a) IN GENERAL.—Beginning not later than December 31, 2009, the Secretary of Transportation shall make available to the public and publish on its public [website] *Web site* an annual report that—

(1) provides a summary of railroad safety and hazardous materials compliance inspections and audits that Federal or State inspectors conducted in the prior fiscal year organized by type of alleged violation, including track, motive power and equipment, signal, grade crossing, operating practices, [accident and incidence reporting] *accident and incident reporting*, and hazardous materials;

(2) provides a summary of all enforcement actions taken by the Secretary or the Federal Railroad Administration during the prior fiscal year, including—

(A) * * *

* * * * * * *

(G) the number of cases referred to the Attorney General for civil or criminal prosecution; *and*

* * * * * * *

(5) identifies the number of locomotive engineer certification denial or revocation cases appealed to and the average length of time it took to be decided by—

(A) * * *

(B) an ⟦Administrative Hearing Officer or Administrative Law Judge⟧ *administrative hearing officer or administrative law judge*; or

* * * * * * *

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

* * * * * * *

§ 20156. Railroad safety risk reduction program

(a) * * *

* * * * * * *

(c) RISK ANALYSIS.—In developing its railroad safety risk reduction program, each railroad carrier required to submit such a program pursuant to subsection (a) shall identify and analyze the aspects of its railroad, including operating rules and practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety.

* * * * * * *

(e) TECHNOLOGY IMPLEMENTATION PLAN.—

(1) * * *

* * * * * * *

⟦(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that—

⟦(A) each railroad carrier's technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule; and

⟦(B) each railroad carrier required to submit such a plan implements a positive train control system pursuant to such plan by December 31, 2018.⟧

(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that each railroad carrier's technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that sched-

ule. Nothing in this section shall be construed as requiring the installation of positive train control on railroad tracks if positive train control is not required on those tracks by section 20157 and positive train control on those tracks is not chosen by the railroad as a technology to be implemented under this section.

* * * * * * *

(g) CONSENSUS.—

(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith, and use its best efforts to reach agreement with, all of its directly affected employees, including any [non-profit] *nonprofit* employee labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program.

* * * * * * *

§ 20157. Implementation of positive train control systems

(a) IN GENERAL.—

(1) PLAN REQUIRED.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, each Class I railroad carrier and each entity providing regularly scheduled intercity or commuter rail passenger transportation shall develop and submit to the Secretary of Transportation a plan for implementing a positive train control system by [December 31, 2015] *December 31, 2020*, governing operations on—

(A) its main line over which intercity rail passenger transportation or commuter rail passenger transportation, as defined in section 24102, is regularly provided; *and*

(B) its main line over which poison- or toxic-by-inhalation hazardous materials, as defined in [parts 171.8, 173.115, and 173.132] *sections 171.8, 173.115, and 173.132* of title 49, Code of Federal Regulations, are transported[; and] *on or after December 31, 2020.*

[(C) such other tracks as the Secretary may prescribe by regulation or order.]

* * * * * * *

(3) ALTERNATIVE STRATEGY.—A plan submitted under this subsection may provide that, in lieu of installing positive train control on all or some of the tracks on which positive train control is otherwise required to be installed pursuant to paragraph (1)(B), the railroad carrier will utilize an alternative risk reduction strategy that would reduce the risk of release of poison- or toxic-by-inhalation hazardous materials to the same extent the risk of a release of poison- or toxic-by-inhalation hazardous materials would be reduced if positive train control were installed on those tracks. An alternative risk reduction strategy may only be used pursuant to this paragraph on tracks for which positive train control is not required pursuant to paragraph (1)(A).

* * * * * * *

(c) REVIEW AND [APPROVAL.—Not later than 90 days after the Secretary receives a plan] *APPROVAL.—*

(1) IN GENERAL.—Not later than 90 days after the Secretary receives a plan or revision of a plan under this section, the Secretary shall review and approve or disapprove it. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier or other entity as to the specific areas in which the proposed plan is deficient, and the railroad carrier or other entity shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans.

(2) REVISION OF PLAN.—A railroad carrier may revise a plan under this section as necessary to reflect rail lines that are added or removed, or to reflect alternative risk reduction strategies proposed pursuant to subsection (a)(3).

(d) REPORT.—Not later than [December 31, 2012] *December 31, 2015*, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress of the railroad carriers in implementing such positive train control systems *and alternative risk reduction strategies. Such report shall include any recommendations for improving the ability of rail carriers to implement positive train control systems or alternative risk reduction strategies in accordance with this section*.

(e) ENFORCEMENT.—The Secretary is authorized to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit or comply with a plan for implementing positive train control *and alternative risk reduction strategies* under subsection (a).

(f) OTHER RAILROAD CARRIERS.—Nothing in this section restricts the discretion of the Secretary to require railroad carriers other than those specified in subsection (a) to implement a positive train control system pursuant to this section [or section 20156], or to specify the period by which implementation shall occur that does not exceed the time limits established in this section or section 20156. In exercising such discretion, the Secretary shall, at a minimum, consider the risk to railroad employees and the public associated with the operations of the railroad carrier.

* * * * * * *

§ 20159. Roadway user sight distance at highway-rail grade crossings

Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, [the Secretary] *the Secretary of Transportation*, after consultation with the Federal Railroad Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions, including vegetation growth, topographic features, structures, and standing railroad equipment, at highway-rail grade crossings that are equipped solely with passive warnings, as recommended by the Inspector General of the Department of Transportation in Report No. MH-2007-044.

§ 20160. National crossing inventory

(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

(1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates [or with] *with* respect to the trackage over which it operates; or

* * * * * * *

(b) UPDATING OF CROSSING INFORMATION.—

(1) On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

(A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates [or with] *with* respect to the trackage over which it operates; or

* * * * * * *

§ 20162. Minimum training standards and plans

(a) IN GENERAL.—The Secretary of Transportation shall, not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008, establish—

(1) * * *

* * * * * * *

(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that safety-related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess [railroad compliance with Federal standards] *railroad carrier compliance with Federal standards* to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers.

* * * * * * *

§ 20164. Development and use of rail safety technology

(a) IN GENERAL.—Not later than 1 year [after enactment of the Railroad Safety Enhancement Act of 2008] *after the enactment of the Rail Safety Improvement Act of 2008*, the Secretary of Transportation shall prescribe standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in

section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensure the safe operation of such technology, such as—

(1) * * *

* * * * * * *

PART B—ASSISTANCE

* * * * * * *

CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

* * * * * * *

§ 22106. Limitations on financial assistance

(a) * * *

(b) STATE USE OF REPAID FUNDS AND CONTINGENT INTEREST RECOVERIES.—The State shall place the United States Government's share of money that is repaid and any contingent interest that is recovered in an interest-bearing account. The repaid money, contingent interest, and any [interest thereof] *interest thereon* shall be considered to be State funds. The State shall use such funds to make other grants and loans, consistent with the purposes for which financial assistance may be used under subsection (a), as the State considers to be appropriate.

* * * * * * *

[CHAPTER 223—CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS

[Sec.
[22301. Capital grants for class II and class III railroads.

[§ 22301. Capital grants for class II and class III railroads

[(a) ESTABLISHMENT OF PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program for making capital grants to class II and class III railroads. Such grants shall be for projects in the public interest that—

[(A)(i) rehabilitate, preserve, or improve railroad track (including roadbed, bridges, and related track structures) used primarily for freight transportation;

[(ii) facilitate the continued or greater use of railroad transportation for freight shipments; and

[(iii) reduce the use of less fuel efficient modes of transportation in the transportation of such shipments; or

[(B) demonstrate innovative technologies and advanced research and development that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation.

[(2) PROVISION OF GRANTS.—Grants may be provided under this chapter—

[(A) directly to the class II or class III railroad; or

[(B) with the concurrence of the class II or class III railroad, to a State or local government.

[(3) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

[(4) REGULATIONS.—Not later than October 1, 2008, the Secretary shall issue final regulations to implement the program under this section.

[(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case-by-case basis consistent with this chapter.

[(c) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

[(d) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of this chapter.

[(e) LABOR STANDARDS.—

[(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under subchapter IV of chapter 31 of title 40 (commonly known as the "Davis-Bacon Act"). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

[(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the subchapter IV of chapter 31 of title 40.

[(f) STUDY.—The Secretary shall conduct a study of the projects carried out with grant assistance under this section to determine the extent to which the program helps promote a reduction in fuel use associated with the transportation of freight and demonstrates innovative technologies that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation. Not later than March 31, 2009, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the study, including any recommendations the Secretary considers appropriate regarding the program.

[(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2008 through 2011 for carrying out this section.]

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CHAPTER 229—PROJECT DEVELOPMENT AND REVIEW

Sec.
22901. Applicability.
22902. Definitions.
22903. Efficient environmental reviews for rail project decisionmaking.
22904. Integration of planning and environmental review.
22905. Program for eliminating duplication of environmental reviews.
22906. Railroad corridor preservation.
22907. Treatment of railroads for historic preservation.
22908. Categorical exclusion.
22909. State assumption of responsibility for categorical exclusions.
22910. Rail project delivery program.
22911. Exemption in emergencies.

§ 22901. Applicability

The provisions of this chapter—

(1) shall be applicable to any freight or intercity passenger rail capital project that is carried out or planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument;

(2) shall be broadly construed; and

(3) may be applied by the Secretary to any class or program of such projects.

§ 22902. Definitions

In this chapter, the following definitions apply:

(1) AGENCY.—The term "agency" means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

(2) ENVIRONMENTAL IMPACT STATEMENT.—The term "environmental impact statement" means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) ENVIRONMENTAL LAW.—The term "environmental law" includes any law that provides procedural or substantive protection, as applicable, for the natural or built environment with regard to the construction and operation of transportation projects.

(4) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term "environmental review process" means the process for preparing for a rail project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) INCLUSIONS.—The term "environmental review process" includes the process for and completion of any environmental permit, approval, review, or study required for a rail project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(5) FEDERAL ENVIRONMENTAL LAWS.—The term "Federal environmental laws" means Federal laws governing the review, including through the issuance of permits and other approvals of environmental impacts of, the construction and operation of transportation projects. Such term includes section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), section 106 of the National Historic Preservation Act (16 U.S.C. 470f), and sections 7(a)(2), 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B), 1539(a)(1)(B)).

(6) FEDERAL LEAD AGENCY.—The term "Federal lead agency" means the Department of Transportation.

(7) JOINT LEAD AGENCY.—The term "joint lead agency" means an agency designated as a joint lead agency as described in paragraph (1) or (2) of section 22903(b).

(8) LEAD AGENCY.—The term "lead agency" means the Department of Transportation and, if applicable, any joint lead agency.

(9) PLANNING PRODUCT.—The term "planning product" means any decision, analysis, study, or other documented result of an evaluation or decisionmaking process carried out during rail and transportation planning.

(10) PROJECT SPONSOR.—The term "project sponsor" means the State agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a rail project.

(11) RAIL PROJECT.—The term "rail project" means any freight or intercity passenger rail capital project that is carried out or is planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument.

(12) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(13) STATE.—The term "State" has the meaning given that term in section 22701(3).

(14) STATE TRANSPORTATION DEPARTMENT.—The term "State transportation department" means any statewide agency of a State with responsibility for one or more modes of transportation.

§ 22903. Efficient environmental reviews for rail project decisionmaking

(a) APPLICABILITY.—

(1) IN GENERAL.—The project development procedures in this section are applicable to all rail projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 and may be applied, to the extent determined appropriate by the Secretary, to other rail projects for which an environmental document is prepared as part of an environmental review process.

(2) FLEXIBILITY.—Any authorities granted in this section may be exercised, and any requirements established in this section may be satisfied, for a rail project, class of projects, or program of rail projects.

(3) FUNDING THRESHOLD.—The Secretary's approval of a rail project involving Federal funds shall not be considered a Federal action for the purposes of the National Environmental Policy Act of 1969 if the Federal funding share—

(A) constitutes 15 percent or less of the total estimated project costs; or

(B) is less than $10,000,000.

(4) PROGRAMMATIC COMPLIANCE.—At the request of a State, the Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with respect to environmental programs and permits (in lieu of project-by-project reviews).

(b) LEAD AGENCIES.—

(1) IN GENERAL.—If the rail project requires approval from more than one modal administration within the Department of Transportation, the Secretary shall designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.

(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969.

(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity applying to receive or receiving Federal funds for the rail project shall serve as a joint lead agency with the Department of Transportation for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

(4) ENSURING COMPLIANCE.—The Secretary shall ensure that a project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection, and that such document is appropriately supplemented if rail project changes become necessary.

(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency in making any approval of a rail project as the document required to be completed under the National Environmental Policy Act of 1969.

(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any rail project, the lead agency shall have authority and responsibility—

(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the rail project; and

(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 is completed in accordance with this section and other applicable Federal law.

(c) PARTICIPATING AGENCIES.—

(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a rail project, any other Federal and non-Federal agencies that may have an interest in the rail project, and shall invite such agencies to become participating agencies in the environmental review process for the rail project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a rail project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

(A) has no jurisdiction or authority with respect to the rail project;

(B) has no expertise or information relevant to the rail project; and

(C) does not intend to submit comments on the rail project.

(4) EFFECT OF DESIGNATION.—

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

(B) IMPLICATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

(i) supports a proposed rail project; or

(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the rail project.

(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a "cooperating agency" under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

(6) DESIGNATIONS FOR CATEGORIES OF RAIL PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a rail project, class of rail projects, or program of rail projects.

(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

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

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure com-

pletion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(d) RAIL PROJECT INITIATION.—The project sponsor shall notify the Secretary of the type of work, length, and general location of the proposed rail project, together with a statement of any Federal approvals anticipated to be necessary for the proposed rail project, for the purpose of informing the Secretary that the environmental review process should be initiated. The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for publication in the Federal Register announcing the preparation of an environmental impact statement for the rail project.

(e) PURPOSE AND NEED.—

(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a rail project.

(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the rail project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the rail project.

(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

(A) achieving a transportation objective identified in an applicable rail or transportation plan;

(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans;

(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies; and

(D) serving the purpose for which the applicable grant, contract, loan, or other financing program was established.

(4) ALTERNATIVES ANALYSIS.—

(A) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a rail project.

(B) RANGE OF ALTERNATIVES.—

(i) IN GENERAL.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the rail project.

(ii) RESTRICTION.—A Federal agency may not require the evaluation of any alternative that was evaluated, but not adopted—

(I) in any prior State or Federal environmental document with regard to the applicable transportation or rail plan or program; or

(II) after the preparation of a programmatic or tiered environmental document that evaluated alternatives to the rail project.

(iii) LEGAL SUFFICIENCY.—The evaluation of the range of alternatives shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

(C) METHODOLOGIES.—

(i) IN GENERAL.—The lead agency also shall determine, after consultation with participating agencies as part of the scoping process, the methodologies to be used and the level of detail required in the analysis of each alternative for a rail project.

(ii) COMMENTS.—Each participating agency shall limit comments on such methodologies to those issues that are within the authority and expertise of such participating agency.

(iii) STUDIES.—The lead agency may not conduct studies proposed by any participating agency that are not within the authority or expertise of such participating agency.

(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a rail project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

(E) LIMITATIONS ON THE EVALUATION OF IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL DOCUMENTS.—

(i) IN GENERAL.—The lead agency may not reevaluate, and a Federal agency may not require the reevaluation of, cumulative impacts or growth-inducing impacts where such impacts were previously evaluated in—

(I) a rail transportation plan or program;

(II) a prior environmental document approved by the Secretary; or

(III) a prior State environmental document approved pursuant to a State law that is substantially equivalent to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(ii) LEGAL SUFFICIENCY.—The evaluation of cumulative impacts and growth inducing impacts shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

(5) EFFECTIVE DECISIONMAKING.—

(A) CONCURRENCE.—At the discretion of the lead agency, a participating agency shall be presumed to concur in the determinations made by the lead agency under this subsection unless the participating agency submits an objection to the lead agency in writing within 30 days after receiving

notice of the lead agency's determination and specifies the statutory basis for the objection.

(B) ADOPTION OF DETERMINATION.—If the participating agency concurs or does not object within the 30-day period, the participating agency shall adopt the lead agency's determination for purposes of any reviews, approvals, or other actions taken by the participating agency as part of the environmental review process for the rail project.

(f) COORDINATION AND SCHEDULING.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—The lead agency shall establish a rail plan for coordinating public and agency participation in and comment on the environmental review process for a rail project, category of rail projects, or program of rail projects. The coordination plan may be incorporated into a memorandum of understanding.

(B) SCHEDULE.—

(i) IN GENERAL.—The lead agency may establish as part of the coordination plan, after consultation with each participating agency for the rail project and with each State in which the rail project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the rail project.

(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

(I) the responsibilities of participating agencies under applicable laws;

(II) resources available to the cooperating agencies;

(III) overall size and complexity of the rail project;

(IV) the overall schedule for and cost of the rail project; and

(V) the sensitivity of the natural and historic resources that could be affected by the rail project.

(C) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under Federal law.

(D) MODIFICATION.—The lead agency may—

(i) lengthen a schedule established under subparagraph (B) for good cause; and

(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

(E) DISSEMINATION.—A copy of a schedule established under subparagraph (B), and of any modifications to the schedule, shall be—

(i) provided to all participating agencies and to the State transportation department of each State in which the rail project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

(2) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a rail project:

(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

(A) PRIOR APPROVAL DEADLINE.—If a participating agency is required to make a determination regarding or otherwise approve or disapprove the rail project prior to the record of decision or finding of no significant impact of the lead agency, such participating agency shall make such determination or approval no later than 30 days after the lead agency publishes notice of the availability of a final environmental impact statement or other final environmental document, or no later than such other date that is otherwise required by law, whichever occurs first.

(B) OTHER DEADLINES.—With regard to any determination or approval of a participating agency that is not subject to subparagraph (A), each participating agency shall make any required determination regarding or otherwise approve or disapprove the rail project no later than 90 days after the date that the lead agency approves the record of decision or finding of no significant impact for the rail project, or not later than such other date that is otherwise required by law, whichever occurs first.

(C) DEEMED APPROVED.—In the event that any participating agency fails to make a determination or approve or disapprove the rail project within the applicable deadline described in subparagraphs (A) and (B), the rail project shall be deemed approved by such participating agency and such approval shall be deemed to comply with the applicable requirements of Federal law.

(D) JUDICIAL REVIEW.—

(i) IN GENERAL.—An approval of a rail project under subparagraph (C) shall not be subject to judicial review.

(ii) WRITTEN FINDING.—The Secretary may issue a written finding verifying the approval made in accordance with this paragraph.

(g) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the rail project under applicable laws.

(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the rail project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the rail project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the rail project.

(4) ISSUE RESOLUTION.—

(A) MEETING OF PARTICIPATING AGENCIES.—At any time upon request of a project sponsor or the Governor of a State in which the rail project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting was requested by the Governor) to resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the rail project under applicable laws.

(B) NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.—If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all participating agencies, the project sponsor, the Governor, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality, and shall publish such notification in the Federal Register.

(C) RESOLUTION FINAL.—

(i) IN GENERAL.—The lead agency and participating agencies may not reconsider the resolution of any issue agreed to by the relevant agencies in a meeting under subparagraph (A).

(ii) COMPLIANCE WITH APPLICABLE LAW.—Any such resolution shall be deemed to comply with applicable law notwithstanding that the agencies agreed to such

resolution prior to the approval of the environmental document.

(h) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—

(1) IN GENERAL.—The lead agency in the environmental review process for a rail project, in order to reduce paperwork and expedite decisionmaking, shall prepare a condensed final environmental impact statement.

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

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

(B) any updates to specific pages or sections of the draft environmental impact statement as appropriate; and

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

(3) TIMING OF DECISION.—Notwithstanding any other provision of law, in conducting the environmental review process for a rail project, the lead agency shall combine a final environmental impact statement and a record of decision for the rail project into a single document if—

(A) the alternative approved in the record of decision is either a preferred alternative that was identified in the draft environmental impact statement or is a modification of such preferred alternative that was developed in response to comments on the draft environmental impact statement; and

(B) the Secretary determines that the lead agency, participating agency, or the project sponsor has committed to implement the measures applicable to the approved alternative that are identified in the final environmental impact statement.

(i) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND RE-EVALUATION.—

(1) SUPPLEMENTAL ENVIRONMENTAL REVIEW.—After the approval of a record of decision or finding of no significant impact with regard to a rail project, an agency may not require the preparation of a subsequent environmental document for such rail project unless the lead agency determines that—

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

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

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

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

(B) more than 5 years has elapsed since the Secretary's prior approval of the rail project or authorization of rail project funding.

(3) CHANGE TO RECORD OF DECISIONS.—After the approval of a record of decision, the Secretary may not require the record of decision to be changed based solely because of a change in the fiscal circumstances surrounding the rail project.

(j) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review processes.

(k) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

(1) IN GENERAL.—For a rail project that is subject to the environmental review process established under this section and for which funds are made available to a State under funding programs administered by the Federal Railroad Administration, the Secretary may approve a request by the State to provide such funds to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the rail projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation or rail project planning and delivery for rail projects in that State.

(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

(3) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

(4) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

(l) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary, by regulation, shall—

(A) implement this section; and

(B) establish methodologies and procedures for evaluating the environmental impacts, including cumulative impacts and growth-inducing impacts, of rail projects subject to this section.

(2) COMPLIANCE WITH APPLICABLE LAW.—Any environmental document that utilizes the methodologies and procedures established under this subsection shall be deemed to comply with the applicable requirements of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or its implementing regulations; or

(B) any other Federal environmental statute applicable to rail projects.

(m) LIMITATIONS ON CLAIMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a rail project shall be barred unless it is filed within 90 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

(2) NEW INFORMATION.—The preparation of a supplemental environmental impact statement or other environmental document when required by this section shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of publication of a notice in the Federal Register announcing such action.

(n) LIMITATIONS ON JUDICIAL RELIEF.—Notwithstanding any other provision of law, the following limitations shall apply to actions brought before a court in connection with a rail project under this section:

(1) Venue for any action shall be where the rail project is located.

(2) A specific property interest impacted by the rail project in question must exist in order to have standing to bring an action.

(3) No action may be commenced by any person alleging a violation of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5 and 7 of title 5, or any other Federal environmental law if such Federal law is identified in the draft environmental impact statement, unless such person provided written notice to the lead agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on the draft environmental impact statement; or

(B) any other law with regard to the rail project unless such person provided written notice to the applicable approving agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on such agency approval.

(4) Elected or appointed officials working for the Federal Government or a State government may not be named in their individual capacities in an action if they are acting within the scope of their official duties.

§ 22904. Integration of planning and environmental review

(a) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to the conditions set forth in subsection (c), the Federal lead agency for a rail project, at the request of the project sponsors, may adopt and use a planning product in proceedings

relating to any class of action in the environmental review process of the rail project.

(2) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

(3) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product shall be made at the time the lead agencies decide the appropriate scope of environmental review for the rail project.

(b) APPLICABILITY.—

(1) PLANNING DECISIONS.—Planning decisions that may be adopted pursuant to this section include—

(A) a purpose and need or goals and objectives statement for the rail project, including with respect to whether private financial assistance or other special financial measures are necessary to implement the rail project;

(B) a decision with respect to rail project location;

(C) a decision with respect to the elimination of unreasonable alternatives and the selection of the range of reasonable alternatives for detailed study during the environmental review process;

(D) a basic description of the environmental setting;

(E) a decision with respect to methodologies for analysis; and

(F) identifications of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with Federal, State, local, and tribal resource agencies, determines are most effectively addressed at a regional or national program level, including—

(i) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation and rail investments on environmental resources, including regional ecosystem and water resources; and

(ii) potential mitigation activities, locations, and investments.

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

(A) freight and passenger rail needs and demands;

(B) regional development and growth;

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

(D) population and employment;

(E) natural and built environmental conditions;

(F) environmental resources and environmentally sensitive areas;

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

(H) mitigation needs for a proposed action, or programmatic level mitigation, for potential effects that the Federal lead agency determines are most effectively addressed at a regional or national program level.

(c) CONDITIONS.—Adoption and use of a planning product under this section is subject to a determination by the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, that the following conditions have been met:

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

(2) The planning process included broad consideration of freight and passenger rail needs and potential effects.

(3) During the planning process, notice was provided, to the extent required by applicable law, through publication or other means to Federal, State, and local government agencies and tribal governments that might have an interest in the proposed rail project, and to members of the general public, of the planning products that the planning process might produce and that might be relied on during the environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

(4) Prior to determining the scope of environmental review for the rail project, the joint lead agencies have made documentation relating to the planning product available to Federal, State, and local governmental agencies and tribal governments that may have an interest in the proposed action, and to members of the general public.

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

(6) The planning product is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

(7) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

(8) The planning product is appropriate for adoption and use in the environmental review process for the rail project.

(d) EFFECT OF ADOPTION.—Notwithstanding any other provision of law, any planning product adopted by the Federal lead agency in accordance with this section shall not be reconsidered or made the subject of additional interagency consultation during the environmental review process of the rail project unless the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the adopted planning product. Any planning product adopted by the Federal lead agency in accordance with this section may be relied upon and used by other Federal agencies in carrying out reviews of the rail project.

(e) RULE OF CONSTRUCTION.—This section may not be construed to make the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to the transportation planning processes conducted under chapters 52 and 227 of this title, section 211 of the Passenger Rail Investment and Improvement Act of 2008, or section 26101 of this title. Initiation of the National Environmental Policy Act of 1969 process as a part of, or concurrently with, trans-

portation planning activities does not subject transportation plans and programs to the National Environmental Policy Act of 1969 process. This section may not be construed to affect the use of planning products in the National Environmental Policy Act of 1969 process pursuant to other authorities under law or to restrict the initiation of the National Environmental Policy Act of 1969 process during planning.

§ 22905. Program for eliminating duplication of environmental reviews

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of rail projects. Under this program, a State may use State laws and procedures to conduct reviews and make approvals in lieu of Federal environmental laws and regulations, consistent with the provisions of this section.

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

(3) SCOPE OF ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.—For purposes of this section, alternative environmental review and approval procedures may include one or more of the following:

(A) Substitution of one or more State environmental laws for one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State environmental laws provide environmental protection and opportunities for public involvement that are substantially equivalent to the applicable Federal environmental laws.

(B) Substitution of one or more State regulations for Federal regulations implementing one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State regulations provide environmental protection and opportunities for public involvement that are substantially equivalent to the Federal regulations.

(b) APPLICATION.—To participate in the program, a State shall submit to the Secretary an application containing such information as the Secretary may require, including—

(1) a full and complete description of the proposed alternative environmental review and approval procedures of the State;

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

(3) evidence of having sought, received, and addressed comments on the proposed application from the public and appropriate Federal environmental resource agencies.

(c) REVIEW OF APPLICATION.—The Secretary shall—

(1) review an application submitted under subsection (b);

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

(3) transmit to the State notice of the approval or disapproval, together with a statement of the reasons for the approval or disapproval.

(d) APPROVAL OF STATE PROGRAMS.—

(1) IN GENERAL.—The Secretary shall approve each such application if the Secretary finds that the proposed alternative environmental review and approval procedures of the State are substantially equivalent to the applicable Federal environmental laws and Federal regulations.

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

(e) COMPLIANCE WITH PERMITS.—Compliance with a permit or other approval of a rail project issued pursuant to a program approved by the Secretary under this section shall be deemed compliance with the Federal laws and regulations identified in the program approved by the Secretary pursuant to this section.

(f) REVIEW AND TERMINATION.—

(1) REVIEW.—All State alternative environmental review and approval procedures approved under this section shall be reviewed by the Secretary not less than once every 5 years.

(2) PUBLIC NOTICE AND COMMENT.—In conducting the review process under paragraph (1), the Secretary shall provide notice and an opportunity for public comment.

(3) EXTENSIONS AND TERMINATIONS.—At the conclusion of the review process, the Secretary may extend the State alternative environmental review and approval procedures for an additional 5-year period or terminate the State program.

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

§ 22906. Railroad corridor preservation

(a) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way and adjacent real property interests before the completion of the environmental reviews for any rail project that may use the right-of-way and the real property interests if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

(b) ENVIRONMENTAL REVIEWS.—Railroad right-of-way and real property interests acquired under this section may not be developed in anticipation of final approval of the rail project until all required environmental reviews for the rail project have been completed.

§ 22907. Treatment of railroads for historic preservation

Except for a railroad operated as a historic site with the purpose of preserving the railroad for listing in the National Register of Historic Places, a railroad subject to the safety regulation jurisdiction of the Federal Railroad Administration, or any portion of such railroad, or any property in current or former use by a railroad and intended to be restored to use by a railroad, shall not be considered

a historic site, district, object, structure, or property of national, State, or local significance for purposes of section 303 of this title or section 106 or 110 of the National Historic Preservation Act (16 U.S.C. 470f or 470h–2) by virtue of being listed as a resource in, or eligible for listing in, the National Register of Historic Places. At the discretion of the Secretary, with the advice of the Department of the Interior, significant individual elements of a railroad such as depots and major bridges would be subject to such section 106 or 110.

§ 22908. Categorical exclusion

(a) TREATMENT OF RAIL PROJECTS.—The Secretary shall, for the purposes of this title, treat a rail project as a class of action categorically excluded from the requirements relating to the environmental assessment process or the preparation of environmental impact statements under the standards promulgated by the Council on Environmental Quality (40 C.F.R. 1508.4), if such rail project—

(1) replaces or maintains existing railroad equipment; track and bridge structures; electrification, communication, signaling, or security facilities; stations; maintenance-of-way and maintenance-of-equipment bases; or other existing railroad-related facilities;

(2) is a rail line addition of any length within an existing right of way;

(3) is related to the implementation of positive train control systems, as required by section 20157 of title 49, United States Code; or

(4) replaces, reconstructs, or rehabilitates an existing railroad bridge, including replacement of a culvert, that does not require the acquisition of a significant amount of right-of-way.

(b) ADDITIONAL ACTIONS.—If a rail project qualifies for categorical exclusion under this section except for additional actions that do not fit in the relevant category, the rail project may be categorically excluded if the Secretary determines, based on information provided by the project sponsor, that the additional actions meet the standards for categorical exclusion promulgated by the Council on Environmental Quality (40 C.F.R. 1508.4).

(c) OTHER OPERATING ADMINISTRATIONS' CATEGORICAL EXCLUSIONS.—If a rail project would be eligible for categorical exclusion from the requirements relating to the environmental assessment process or the preparation of environmental impact statements by another operating administration of the Department of Transportation, the Federal Railroad Administration may categorically exclude the rail project.

§ 22909. State assumption of responsibility for categorical exclusions

(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and for any type of activity for which a categorical exclusion classification is appropriate.

(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego project delivery methods that are otherwise permissible for rail projects.

(b) OTHER APPLICABLE FEDERAL LAWS.—

(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal environmental law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

(c) MEMORANDA OF UNDERSTANDING.—

(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

(2) TERM.—A memorandum of understanding—

(A) shall have a term of not more than 3 years; and

(B) shall be renewable.

(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

(4) MONITORING.—The Secretary shall—

(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a deter-

mination that the State is not adequately carrying out the responsibilities assigned to the State.

(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.

§ 22910. Rail project delivery program

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a rail project delivery program (referred to in this section as the "program").

(2) ASSUMPTION OF RESPONSIBILITY.—

(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more rail projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific rail project; but

(ii) the Secretary may not assign any responsibility imposed on the Secretary by chapter 227 of this title.

(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a rail project.

(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for rail projects.

(b) STATE PARTICIPATION.—

(1) PARTICIPATING STATES.—All States are eligible to participate in the program.

(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information re-

quired to be contained in any application of a State to participate in the program, including, at a minimum—

(A) the rail projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

(3) PUBLIC NOTICE.—

(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

(A) the regulatory requirements under paragraph (2) have been met;

(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

(C) the head of the State agency having primary jurisdiction over rail matters enters into a written agreement with the Secretary described in subsection (c).

(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for rail construction;

(2) be in such form as the Secretary may prescribe;

(3) provide that the State—

(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

(C) certifies that State laws (including regulations) are in effect that—

(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed;

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

(5) shall be renewable.

(d) JURISDICTION.—

(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (j).

(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

(g) AUDITS.—

(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

(A) semiannual audits during each of the first 2 years of State participation; and

(B) annual audits during each of the third and fourth years of State participation.

(2) PUBLIC AVAILABILITY AND COMMENT.—

(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

(h) MONITORING.—After the fourth year of participation of the State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

(i) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

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

(1) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

(2) the Secretary provides to the State—

(A) notification of the determination of noncompliance; and

(B) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

(3) the State, after the notification and period provided under paragraph (2), fails to take satisfactory corrective action, as determined by Secretary.

§ 22911. Exemption in emergencies

If any railroad, track, bridge, or other facility is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121), is proposed to be reconstructed with Federal funds, and is reconstructed in the same location with the same capacity, dimensions, and design as before the emergency, then that reconstruction project shall be exempt from any further environmental reviews, approvals, licensing, and permit requirements under—

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

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

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

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

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

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

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

(8) Executive Order 11990 (42 U.S.C. 4321 note; relating to the protection of wetlands); and

(9) any Federal law (including regulations) requiring no net loss of wetlands.

* * * * * * *

PART C—PASSENGER TRANSPORTATION

* * * * * * *

CHAPTER 241—GENERAL

Sec.
24101. Findings, mission, and goals.

* * * * * * *

[24105. Congestion grants.]

* * * * * * *

[§ 24105. Congestion grants

[(a) AUTHORITY.—The Secretary of Transportation may make grants to States, or to Amtrak in cooperation with States, for financing the capital costs of facilities, infrastructure, and equipment for high priority rail corridor projects necessary to reduce congestion or facilitate ridership growth in intercity rail passenger transportation.

[(b) ELIGIBLE PROJECTS.—Projects eligible for grants under this section include projects—

[(1) identified by Amtrak as necessary to reduce congestion or facilitate ridership growth in intercity rail passenger transportation along heavily traveled rail corridors;

[(2) identified by the Surface Transportation Board as necessary to improve the on time performance and reliability of intercity rail passenger transportation under section 24308(f); and

[(3) designated by the Secretary as being sufficiently advanced in development to be capable of serving the purposes described in subsection (a) on an expedited schedule.

[(c) FEDERAL SHARE.—The Federal share of the cost of a project financed under this section shall not exceed 80 percent.

[(d) GRANT CONDITIONS.—The Secretary of Transportation shall require each recipient of a grant under this section to comply with the grant requirements of section 24405 of this title.

[(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from amounts made available under section 301 of the Passenger Rail Investment and Improvement Act of 2008, to the Secretary to carry out this section—

[(1) $50,000,000 for fiscal year 2010;

[(2) $75,000,000 for fiscal year 2011;

[(3) $100,000,000 for fiscal year 2012; and

[(4) $100,000,000 for fiscal year 2013.]

* * * * * * *

CHAPTER 243—AMTRAK

Sec.

24301. Status and applicable laws.

* * * * * * *

24316. Plan [to assist families of passengers] *to address needs of families of passengers* involved in rail passenger accidents.

24317. Inspector General.

* * * * * * *

§ 24305. General authority

(a) * * *

* * * * * * *

(c) MISCELLANEOUS AUTHORITY.—Amtrak may—

(1) * * *

* * * * * * *

(4) provide food and beverage services on its trains [only if revenues from the services each year at least equal the cost of providing the services] *only as provided in subsection (h)*;

* * * * * * *

(f) DOMESTIC BUYING PREFERENCES.—(1) * * *

* * * * * * *

(5) The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this title.

(6) If the Secretary receives a request for an exemption under this subsection, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request. Such a notice shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation. If the Secretary grants an exemption under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the exemption that addresses the public comments received under this paragraph and shall ensure that such justification is published before the exemption takes effect.

(g) LIMITATIONS ON USE OF FEDERAL FUNDS.—

(1) LIMITATIONS.—Amtrak may not use any Federal funds for the following purposes:

(A) Hiring or contracting with any outside legal professional for the purpose of filing, litigating, or otherwise pursuing any cause of action in a Federal or State court against a passenger rail service provider.

(B) Filing, litigating, or otherwise pursuing in any Federal or State court any cause of action against a passenger rail service provider arising from a competitive bid process in which Amtrak and the passenger rail service provider participated.

(2) DEFINITIONS.—For the purposes of this subsection—

(A) the term "outside legal professional" means any individual, corporation, partnership, limited liability corporation, limited liability partnership, or other private entity in the business of providing legal services that is not employed on a full-time basis solely by Amtrak; and

(B) the term "passenger rail service provider" means any company, partnership, or other public or private entity that operates passenger rail service or bids to operate passenger rail service in a competitive process.

(h) FOOD AND BEVERAGE SERVICE.—

(1) IN GENERAL.—Except as provided in paragraph (6), food and beverage service may be provided on Amtrak trains only by a bidder selected by the Federal Railroad Administration under paragraph (5). The Federal Railroad Administration may consult with and obtain assistance from the General Services Administration in carrying out this subsection.

(2) REQUESTS FOR PROPOSALS.—Not later than 60 days after the date of enactment of this subsection, the Federal Railroad Administration shall issue separate requests for proposals for provision of food and beverage service on Amtrak trains on the national rail passenger transportation system for each of subparagraphs (A) through (D) of section 24102(5).

(3) DEADLINES.—

(A) SUBMITTAL OF BIDS.—Bids for the provision of food and beverage service on Amtrak trains pursuant to the requests for proposals issued under paragraph (2) shall be submitted to the Federal Railroad Administration not later than 60 days after the issuance of the relevant request for proposals.

(B) SELECTION OF WINNING BIDS.—The Federal Railroad Administration shall select winning bidders pursuant to paragraph (5) not later than 90 days after the issuance of the relevant request for proposals.

(4) AMTRAK PARTICIPATION.—Amtrak may participate in the bidding pursuant to a request for proposals issued under paragraph (2).

(5) SELECTION OF PROVIDERS.—The Federal Railroad Administration shall select for the provision of food and beverage service on Amtrak trains the qualified bidder responding to the request for proposals issued under paragraph (2) whose bid would result in the lowest cost, or the greatest source of revenue, to Amtrak.

(6) EXEMPTION.—If no qualified bidder responds to the request for proposals issued under paragraph (2), Amtrak, after transmitting to the Federal Railroad Administration and the Congress an explanation of the reasons for the need of an exemption, may request from the Federal Railroad Administration, and the Federal Railroad Administration may grant, an exemption from the limitations under this subsection.

(7) SUBSIDY FOR NET LOSS.—The Federal Railroad Administration shall provide directly to the entity providing food and beverage service on Amtrak trains any portion of appropriations for Amtrak necessary to cover a net loss resulting from the provision of such service, but only to the extent that such net loss was anticipated in the bid selected.

* * * * * * *

[§ 24310. Management accountability

[(a) IN GENERAL.—Within 3 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, and 2 years thereafter, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by Amtrak management and the Department of Transportation in implementing the provisions of that Act.

[(b) ASSESSMENT.—The management assessment undertaken by the Inspector General may include a review of—

[(1) effectiveness in improving annual financial planning;

[(2) effectiveness in implementing improved financial accounting;

[(3) efforts to implement minimum train performance standards;

[(4) progress maximizing revenues, minimizing Federal subsidies, and improving financial results; and

[(5) any other aspect of Amtrak operations the Inspector General finds appropriate to review.]

§ 24310. Management accountability

(a) IN GENERAL.—Promptly after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and again not later than 5 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by the Department of Transportation, and the Inspector General of Amtrak shall complete an overall assessment of the progress made by Amtrak management, in implementing the provisions of the Passenger Rail Investment and Improvement Act of 2008.

(b) ASSESSMENT.—The management assessment undertaken by the Amtrak Inspector General may include a review of—

(1) effectiveness in improving annual financial planning;

(2) effectiveness in implementing improved financial accounting;

(3) efforts to implement minimum train performance standards;

(4) progress maximizing revenues, minimizing Federal subsidies, and improving financial results; and

(5) any other aspect of Amtrak operations the Amtrak Inspector General finds appropriate to review.

* * * * * * *

§ 24317. Inspector General

(a) INVESTIGATION AUTHORITY.—The Inspector General of Amtrak shall have all authority available to other Inspectors General, as necessary in carrying out the duties specified in the Inspector General Act 1978 (5 U.S.C. App. 3), to investigate any alleged violation of section 286, 287, 371, 641, 1001, or 1002 of title 18, and, with respect to audits conducted by the Amtrak Office of the Inspector General, any violation of section 1516 of such title.

(b) SERVICES FROM GENERAL SERVICES ADMINISTRATION.—The Inspector General of Amtrak may obtain from the Administrator of General Services, and the Administrator shall provide to the Inspector General, services under sections 502(a) and 602 of title 40, including travel programs.

(c) QUALIFIED IMMUNITY.—

(1) IN GENERAL.—An employee of the Amtrak Office of Inspector General shall enjoy the same personal qualified immunity from lawsuit or liability as the employees of other inspectors general that operate under authority of the Inspector General Act of 1978 with respect to the performance of investigative, audit, or inspection functions authorized under that Act that are carried out for the Amtrak Office of Inspector General.

(2) FEDERAL GOVERNMENT LIABILITY.—No liability of any kind shall attach to or rest upon the United States for any

damages from or by any actions of the Amtrak Office of Inspector General, its employees, agents, or representatives.

* * * * * * *

CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

Sec.
24401. Definitions.
[24402. Capital investment grants to support intercity passenger rail service.]
24402. Intercity passenger rail capital grants to States.

* * * * * * *

§ 24402. [Capital investment grants to support intercity passenger rail service] *Intercity passenger rail capital grants to States*

(a) * * *

[(b) PROJECT AS PART OF STATE RAIL PLAN.—

[(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of a State rail plan developed under chapter 227 of this title, or under the plan required by section 211 of the Passenger Rail Investment and Improvement Act of 2008, and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

[(2) An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

[(3) If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not unnecessarily increase the cost of the project.]

[(c)] *(b)* PROJECT SELECTION CRITERIA.—The Secretary, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

(1) require—

(A) * * *

* * * * * * *

(D) [that if an applicant has selected the proposed operator of its service competitively, that the applicant provide] *that the applicant shall select the proposed operator of its service competitively, and that the applicant shall provide* written justification to the Secretary showing why the proposed operator is the best, taking into account costs and other factors;

* * * * * * *

(2) select projects—

(A) * * *

(B) for which there is a high degree of confidence that the proposed project is feasible and will result in the anticipated benefits, as indicated by—

(i) * * *

(ii) the readiness of the project to be commenced; *and*

(iii) the timing and amount of the project's future noncommitted investments; *and*

[(iv) the commitment of any affected host rail carrier to ensure the realization of the anticipated benefits; and

[(v) other relevant factors as determined by the Secretary; and]

* * * * * * *

[(d)] *(c)* STATE RAIL PLANS.—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of chapter 227 of this title, as determined by the Secretary pursuant to section 22506 of this title, shall be deemed by the Secretary to have met the requirements of subsection [(c)(1)(A)] *(b)(1)(A)* of this section.

[(e)] *(d)* AMTRAK ELIGIBILITY.—To receive a grant under this section, Amtrak may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on a State rail plan's ranked list of rail capital projects developed under section 22504(a)(5) of this title. For such a grant, Amtrak may not use Federal funds authorized under section 101(a) or (c) of the Passenger Rail Investment and Improvement Act of 2008 to fulfill the non-Federal share requirements under subsection [(g)] *(f)* of this section.

[(f)] *(e)* LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—

(1) * * *

(2) At least 30 days before issuing a letter under paragraph (1) of this subsection, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement, the criteria used in subsection [(c)] *(b)* for selecting the project for a grant award, and a description of how the project meets such criteria.

* * * * * * *

[(g)] *(f)* FEDERAL SHARE OF NET PROJECT COST.—

(1) * * *

* * * * * * *

[(3) The following amounts, not to exceed $15,000,000 per fiscal year, shall be available to each applicant as a credit toward an applicant's matching requirement for a grant awarded under this section—

[(A) in each of fiscal years 2009, 2010, and 2011—

[(i) 50 percent of the average of amounts expended in fiscal years 2002 through 2008 by an applicant for capital projects related to intercity passenger rail service; and

[(ii) 50 percent of the average of amounts expended in fiscal years 2002 through 2008 by an applicant for operating costs of such service; and

[(B) in each of fiscal years 2010, 2011 and 2012, 50 percent of the amount by which the amounts expended for capital projects and operating costs related to intercity passenger rail service by an applicant in the prior fiscal year exceed the average capital and operating expenditures made for such service in fiscal years 2006, 2007, and 2008.

The Secretary may require such information as necessary to verify such expenditures. Credits made available to an applicant in a fiscal year under this paragraph may only be applied towards grants awarded in that fiscal year.

[(4) The Federal share of expenditures for capital improvements under this chapter may not exceed 100 percent.]

[(h)] *(g)* 2-YEAR AVAILABILITY.—Funds appropriated under this section shall remain available until expended. [If any amount provided as a grant under this section is not obligated or expended for the purposes described in subsection (a) within 2 years after the date on which the State received the grant, such sums shall be returned to the Secretary for other intercity passenger rail development projects under this section at the discretion of the Secretary.] *If any amount provided as a grant under this section is not obligated within 3 years after the date on which the State is awarded the grant, such amount shall be rescinded and deposited to the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction and prohibited from use as an offset for other spending increases or revenue reductions.*

[(i)] *(h)* COOPERATIVE AGREEMENTS.—

(1) * * *

* * * * * * *

[(j)] *(i)* SPECIAL TRANSPORTATION CIRCUMSTANCES.—In carrying out this section, the Secretary shall allocate an appropriate portion of the amounts available under this section to provide grants to States—

(1) * * *

* * * * * * *

[(k)] *(j)* SMALL CAPITAL PROJECTS.—The Secretary shall make not less than 5 percent annually available from the amounts authorized under section 101(c) of the Passenger Rail Investment and Improvement Act of 2008 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding $2,000,000, including costs eligible under section 209(d) of that Act. For grants awarded under this subsection, the Secretary may waive requirements of this section, including state rail plan requirements, as appropriate.

[(l)] *(k)* NONMOTORIZED TRANSPORTATION ACCESS AND STORAGE.—Grants under this chapter may be used to provide access to rolling stock for nonmotorized transportation, including bicycles,

and recreational equipment, and to provide storage capacity in trains for such transportation, equipment, and other luggage, to ensure passenger safety.

* * * * * * *

§ 24405. Grant conditions

(a) BUY AMERICA.—(1) * * *

* * * * * * *

[(4) If the Secretary determines that it is necessary to waive the application of paragraph (1) based on a finding under paragraph (2), the Secretary shall, before the date on which such finding takes effect—

[(A) publish in the Federal Register a detailed written justification as to why the waiver is needed; and

[(B) provide notice of such finding and an opportunity for public comment on such finding for a reasonable period of time not to exceed 15 days.]

[(5)] *(4)* Not later than December 31, 2012, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on any waivers granted under paragraph (2).

[(6)] *(5)* The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) * * *

* * * * * * *

[(7)] *(6)* A person is ineligible to receive a contract or subcontract made with amounts authorized under this chapter if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) * * *

* * * * * * *

[(8)] *(7)* The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

[(9)] *(8)* The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

[(10)] *(9)* A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

[(11)] *(10)* The requirements of this subsection shall only apply to projects for which the costs exceed $100,000.

(11) The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this title.

(12) If the Secretary receives a request for a waiver under this subsection, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request. Such a notice shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation. If the Secretary issues a waiver under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the waiver that addresses the public comments received under this paragraph and shall ensure that such justification is published before the waiver takes effect.

CHAPTER 247—AMTRAK ROUTE SYSTEM

* * * * * * *

§ 24711. Alternate passenger rail service pilot program

(a) IN GENERAL.—Within 1 year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Federal Railroad Administration shall complete a rulemaking proceeding to develop a pilot program that—

(1) permits a rail carrier or rail carriers that own infrastructure over which Amtrak operates a passenger rail service route described in subparagraph (B), (C), or (D) of section 24102(5) or in section 24702 to petition the Administration to be considered as a passenger rail service provider over that route in lieu of Amtrak for [a period not to exceed 5 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008] *an operations period of 5 years, renewable for a second 5-year operations period at the discretion of the Administrator*;

* * * * * * *

(f) TRANSFER AUTHORITY.—The Secretary of Transportation may provide directly to a winning bidder selected under this section any portion of appropriations for Amtrak operations necessary to cover the operating subsidy described in subsection (a)(5)(B).

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PART D—HIGH-SPEED RAIL

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CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

* * * * * * *

§ 26106. High-speed rail corridor development

(a) * * *

* * * * * * *

(e) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

(1) * * *

(2) GRANT CRITERIA.—The Secretary, in selecting the recipients of high-speed rail development grants to be provided under subsection (c), shall—

(A) require—

(i) * * *

* * * * * * *

(v) [that if an applicant has selected the proposed operator of its service, that the applicant provide] *that the applicant shall select the proposed operator of its service competitively, and that the applicant shall provide* written justification to the Secretary showing why the proposed operator is the best, taking into account costs and other factors;

* * * * * * *

(B) select high-speed rail projects—

(i) * * *

(ii) for which there is a high degree of confidence that the proposed project is feasible and will result in the anticipated benefits, as indicated by—

(I) the project's precommencement compliance with environmental protection requirements; *and*

(II) the readiness of the project to be commenced; *and*

[(III) the commitment of any affected host rail carrier to ensure the realization of the anticipated benefits; and

[(IV) other relevant factors as determined by the Secretary;]

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SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

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PART B—COMMERCIAL

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CHAPTER 311—COMMERCIAL MOTOR VEHICLE SAFETY

SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS

Sec.

31100. Purpose.
* * * * * * *
[31102. Grants to States.]
31102. Motor carrier safety assistance program.
* * * * * * *
[31107. Border enforcement grants.]
* * * * * * *
[31109. Performance and registration information system management.]
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SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS PROGRAMS

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[§ 31102. Grants to States

[(a) GENERAL AUTHORITY.—Subject to this section and the availability of amounts, the Secretary of Transportation may make grants to States for the development or implementation of programs for improving motor carrier safety and the enforcement of regulations, standards, and orders of the United States Government on commercial motor vehicle safety, hazardous materials transportation safety, and compatible State regulations, standards, and orders.

[(b) STATE PLAN PROCEDURES AND CONTENTS.—(1) The Secretary shall prescribe procedures for a State to submit a plan under which the State agrees to assume responsibility for improving motor carrier safety and to adopt and enforce regulations, standards, and orders of the Government on commercial motor vehicle safety, hazardous materials transportation safety, or compatible State regulations, standards, and orders. The Secretary shall approve the plan if the Secretary decides the plan is adequate to promote the objectives of this section and the plan—

[(A) implements performance-based activities, including deployment of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;

[(B) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

[(C) contains satisfactory assurances the agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

[(D) contains satisfactory assurances the State will devote adequate amounts to the administration of the plan and enforcement of the regulations, standards, and orders;

[(E) provides that the total expenditure of amounts of the State and its political subdivisions (not including amounts of the Government) for commercial motor vehicle safety programs for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (c) of this section will be maintained at a level at least equal to the average level of that ex-

penditure for the 3 full fiscal years beginning after October 1 of the year 5 years prior to the beginning of each Government fiscal year.

[(F) provides a right of entry and inspection to carry out the plan;

[(G) provides that all reports required under this section be submitted to the agency and that the agency will make the reports available to the Secretary on request;

[(H) provides that the agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations the Secretary prescribes;

[(I) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State;

[(J) provides that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standard through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

[(K) ensures that activities described in subsection (c)(1) of this section, if financed with grants under subsection (a) of this section, will not diminish the effectiveness of the development and implementation of commercial motor vehicle safety programs described in subsection (a);

[(L) ensures that the State agency will coordinate the plan, data collection, and information systems with State highway safety programs under title 23;

[(M) ensures participation in SAFETYNET and other information systems by all appropriate jurisdictions receiving funding under this section;

[(N) ensures that information is exchanged among the States in a timely manner;

[(O) provides satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

[(P) provides satisfactory assurances that the State will promote activities in support of national priorities and performance goals, including—

> [(i) activities aimed at removing impaired commercial motor vehicle drivers from the highways of the United States through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;
>
> [(ii) activities aimed at providing an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances; and
>
> [(iii) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities;

[(Q) provides that the State has established a program to ensure that—

[(i) accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary; and

[(ii) the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;

[(R) ensures that the State will cooperate in the enforcement of registration requirements under section 13902 and financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued thereunder;

[(S) ensures consistent, effective, and reasonable sanctions;

[(T) ensures that roadside inspections will be conducted at a location that is adequate to protect the safety of drivers and enforcement personnel;

[(U) provides that the State will include in the training manual for the licensing examination to drive a noncommercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

[(V) provides that the State will enforce the registration requirements of section 13902 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier without a registration issued under such section or to operate beyond the scope of such registration;

[(W) provides that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors; and

[(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop.

[(2) If the Secretary disapproves a plan under this subsection, the Secretary shall give the State a written explanation and allow the State to modify and resubmit the plan for approval.

[(3) In estimating the average level of State expenditure under paragraph (1)(E) of this subsection, the Secretary—

[(A) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

[(B) shall require the State to exclude Government amounts and State matching amounts used to receive Government financing under subsection (a) of this section.

[(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a)—

[(1) for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

[(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

[(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and

[(2) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles if the number of motor carrier safety activities (including roadside safety inspections) conducted in the State is maintained at a level at least equal to the average level of such activities conducted in the State in fiscal years 2003, 2004, and 2005; except that the State may not use more than 5 percent of the basic amount the State receives under the grant under subsection (a) for enforcement activities relating to noncommercial motor vehicles described in this paragraph unless the Secretary determines a higher percentage will result in significant increases in commercial motor vehicle safety.

[(d) CONTINUOUS EVALUATION OF PLANS.—On the basis of reports submitted by a State motor vehicle safety agency of a State with a plan approved under this section and the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan. If the Secretary finds, after notice and opportunity for comment, the State plan previously approved is not being followed or has become inadequate to ensure enforcement of the regulations, standards, or orders, the Secretary shall withdraw approval of the plan and notify the State. The plan stops being effective when the notice is received. A State adversely affected by the withdrawal may seek judicial review under chapter 7 of title 5. Notwithstanding the withdrawal, the State may retain jurisdiction in administrative or judicial proceedings begun before the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

[(e) ANNUAL REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate an annual report that—

[(1) analyzes commercial motor vehicle safety trends among the States and documents the most effective commercial motor vehicle safety programs implemented with grants under this section; and

[(2) describes the effect of activities carried out with grants made under this section on commercial motor vehicle safety.]

§ 31102. Motor carrier safety assistance program

(a) GENERAL AUTHORITY.—The Secretary of Transportation shall administer a motor carrier safety assistance program to assist States with—

(1) the development or implementation of programs for improving motor carrier safety; and

(2) the enforcement of Federal regulations, standards, and orders (and compatible State regulations, standards, and orders) on—

(A) commercial motor vehicle safety; and

(B) hazardous materials transportation safety.

(b) STATE PLANS.—

(1) PROCEDURES.—The Secretary shall prescribe procedures for a State to participate in the program, including procedures under which the State shall submit a plan, in writing, to the Secretary in which the State agrees—

(A) to assume responsibility for improving motor carrier safety in the State; and

(B) to adopt and enforce Federal regulations, standards, and orders (and compatible State regulations, standards, and orders) on—

(i) commercial motor vehicle safety; and

(ii) hazardous materials transportation safety.

(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall—

(A) provide for implementation of performance-based activities, including deployment of technology, to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;

(B) provide for implementation of a border commercial motor vehicle safety program and related enforcement activities if the State shares a land border with another country;

(C) designate a State motor vehicle safety agency (in this paragraph referred to as the "designated State agency") responsible for administering the plan throughout the State;

(D) provide satisfactory assurances that the designated State agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

(E) provide satisfactory assurances that the State will devote adequate amounts to the administration of the plan and enforcement of the regulations, standards, and orders;

(F) provide a right of entry and inspection to carry out the plan;

(G) provide that all reports required under this section be submitted to the designated State agency and that the designated State agency will make the reports available to the Secretary on request;

(H) provide that the designated State agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations the Secretary prescribes;

(I) require registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State;

(J) provide that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standard through the use of a nationally accept-

ed system that allows ready identification of previously inspected commercial motor vehicles;

(K) ensure that activities described in subsection (f)(3)(B), if financed with grants under this section, will not diminish the effectiveness of the development and implementation of commercial motor vehicle safety programs described in subsection (a);

(L) ensure that the designated State agency will coordinate the plan, data collection, and information systems with State highway safety programs under title 23;

(M) ensure participation in appropriate Federal Motor Carrier Safety Administration information systems and other information systems by all appropriate jurisdictions receiving funding under this section;

(N) provide satisfactory assurances that the State is willing and able to exchange information with other States in a timely manner;

(O) provide satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

(P) provide satisfactory assurances that the State will promote activities in support of national priorities, including—

(i) activities aimed at removing impaired commercial motor vehicle drivers from the highways of the United States—

(I) through adequate enforcement of regulations on the use of alcohol and controlled substances; and

(II) by ensuring ready roadside access to alcohol detection and measuring equipment;

(ii) activities aimed at providing an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances; and

(iii) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities;

(Q) provide satisfactory assurances that the State has established a program to ensure that—

(i) accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary; and

(ii) the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;

(R) ensure that the State will cooperate in the enforcement of financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued thereunder;

(S) ensure consistent, effective, and reasonable sanctions;

(T) ensure that roadside inspections will be conducted at a location that is adequate to protect the safety of drivers and enforcement personnel;

(U) provide satisfactory assurances that the State will include, in the training manual for the licensing examination to drive a noncommercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

(V) provide satisfactory assurances that the State will enforce the registration requirements of sections 13902 and 31134 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier—

(i) without a registration issued under such sections; or

(ii) beyond the scope of such registration;

(W) provide satisfactory assurances that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors; and

(X) provide for implementation of activities to monitor the safety performance of motor carriers of passengers, including inspections of commercial motor vehicles designed or used to transport passengers; except that roadside inspections must be conducted at a station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop, except in the case of an imminent or obvious safety hazard.

(3) MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A plan submitted by a State under this subsection shall provide that the total expenditure of amounts of the State and political subdivisions of the State (not including amounts of the United States) for commercial motor vehicle safety programs and for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (f) will be maintained at a level at least equal to the average level of that expenditure for the 3 most recent fiscal years ending before the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

(B) CALCULATING STATE EXPENDITURES.—In calculating the average level of State expenditure, the Secretary—

(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

(ii) shall require the State to exclude Government amounts.

(c) GUIDANCE AND STANDARDS.—

(1) IN GENERAL.—Not later than October 1, 2013, the Secretary shall—

(A) develop guidance on the effectiveness of specific enforcement and related activities in generating reductions in fatalities and crashes involving commercial motor vehicles; and

(B) publish standards for data timeliness, accuracy, and completeness that will allow States to meet the objectives of

this section and that are consistent with the standards issued under section 31106(a)(4).

(2) OPTIMIZATION OF ALLOCATIONS.—The Secretary shall develop a tool for States to optimize allocations of motor carrier safety resources to carry out enforcement and related activities to meet the objectives of this section.

(3) UPDATES OF GUIDANCE.—The Secretary shall update the guidance issued under paragraph (1)(A) periodically to reflect new information.

(d) PERFORMANCE MEASURES.—

(1) STATE TARGETS.—For fiscal year 2014, and each fiscal year thereafter, each State, in the plan submitted by that State under subsection (b), shall—

(A) establish targets, in quantifiable metrics, for enforcement activities, data quality, and other benchmarks to reduce fatalities and crashes involving commercial motor vehicles;

(B) select target activities in accordance with the Secretary's latest guidance to ensure States pursue activities likely to generate maximum fatality and crash reduction; and

(C) meet the standards for data published by the Secretary under subsection (c)(1)(B).

(2) ANNUAL UPDATES OF STATE PLANS.—A State shall—

(A) update its plan under subsection (b) annually to establish targets for the following fiscal year; and

(B) submit the updated plan to the Secretary.

(3) REQUIREMENTS FOR TARGETS.—If a State receives an increase in grant funds under this section in a fiscal year as compared to the previous fiscal year, the targets established by the State under paragraph (1) for the fiscal year shall exceed the levels achieved by the State in the previous fiscal year.

(4) STATE REPORTS.—

(A) INFORMATION ON FATALITIES AND CRASHES INVOLVING COMMERCIAL MOTOR VEHICLES.—Under the motor carrier safety assistance program, a State shall report to the Secretary the number and rate of fatalities and crashes involving commercial motor vehicles occurring in the State in the previous fiscal year.

(B) OTHER INFORMATION.—A State shall include in the report required under subparagraph (A) information on commercial motor vehicles registered in the State and involved in crashes in such fiscal year and any other information requested by the Secretary.

(5) ASSESSMENTS.—As part of the annual plan approval process under subsection (e), the Secretary shall assess whether—

(A) a State met its targets in the previous fiscal year; and

(B) targeted activities are reducing fatalities and crashes involving commercial motor vehicles.

(e) PLAN REVIEW.—

(1) APPROVAL PROCESS.—Before distributing grant funds under subsection (f) in a fiscal year, the Secretary shall—

(A) review each State plan submitted to the Secretary under subsection (b), as updated by the State under subsection (d); and

(B)(i) approve the plan if the Secretary determines that the plan is adequate to promote the objectives of this section; or

(ii) disapprove the plan.

(2) RESUBMITTAL.—If the Secretary disapproves a plan under this subsection, the Secretary shall—

(A) give the State a written explanation; and

(B) allow the State to modify and resubmit the plan for approval.

(3) CONTINUOUS EVALUATION OF PLANS.—

(A) IN GENERAL.—On the basis of reports submitted by the motor vehicle safety agency of a State with a plan approved under this subsection and the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan.

(B) WITHDRAWAL OF APPROVAL.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for comment, a State plan previously approved under this subsection is not being followed or has become inadequate to ensure enforcement of the regulations, standards, or orders, the Secretary shall withdraw approval of the plan and notify the State.

(ii) EFFECTIVE DATE.—The plan shall not be effective beginning on the date the notice is received.

(iii) JUDICIAL REVIEW.—A State adversely affected by a withdrawal under this subparagraph may seek judicial review under chapter 7 of title 5.

(C) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—Notwithstanding a withdrawal of approval of a State plan under this paragraph, the State may retain jurisdiction in administrative or judicial proceedings begun before the date of the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

(f) GRANTS TO STATES.—

(1) IN GENERAL.—Subject to the availability of funds, the Secretary shall make grants to States for the development or implementation of programs under this section in accordance with paragraph (3).

(2) ELIGIBILITY.—

(A) IN GENERAL.—A State shall be eligible for a grant under this subsection in a fiscal year in an amount equal to the State's allocated amount determined under section 31104(f) if the State has in effect a State plan under subsection (b) that has been approved by the Secretary under subsection (e) for that fiscal year.

(B) WITHHOLDING OF FUNDS.—In the case of a State that does not meet the requirements of subparagraph (A) in a fiscal year, the Secretary may withhold grant funds from a State's allocated amount determined under section 31104(f) for that fiscal year as follows:

(i) The Secretary may withhold up to 25 percent of such funds if the State had a plan approved under subsection (e) for the fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant.

(ii) The Secretary may withhold up to 50 percent of such funds if the State had a plan approved under subsection (e) for the second fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant and the preceding fiscal year.

(iii) The Secretary may withhold up to 75 percent of such funds if the State had a plan approved under subsection (e) for the third fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant and the 2 preceding fiscal years.

(iv) The Secretary may withhold 100 percent of such funds if the State has not had a plan approved under subsection (e) for the fiscal year of the grant and the 3 preceding fiscal years.

(C) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary shall make available to a State the grant funds withheld from the State for a fiscal year under subparagraph (B) if the Secretary approves the State's plan under subsection (e) on or before the last day of that fiscal year.

(D) REALLOCATION OF WITHHELD FUNDS.—If the Secretary withholds grant funds from a State for a fiscal year under subparagraph (B), and the State does not have a plan approved under subsection (e) on or before the last day of that fiscal year, such funds shall be released to the Secretary for reallocation among the States under section 31104(f) in the following fiscal year.

(3) USE OF GRANT FUNDS.—

(A) IN GENERAL.—A State receiving a grant under this subsection shall use the grant funds for activities to further the State's plan under subsection (b).

(B) USE OF GRANTS TO ENFORCE OTHER LAWS.—Subject to subparagraph (C), a State may use grant funds received under this subsection—

(i) if carried out in conjunction with an appropriate inspection of a commercial motor vehicle to enforce Federal or State commercial motor vehicle safety regulations, for—

(I) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

(II) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and

(ii) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.

(C) LIMITATIONS.—

(i) EFFECT ON COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS.—A State may use grant funds received under this subsection for an activity described in subparagraph (B) only if the activity will not diminish the effectiveness of commercial motor vehicle safety programs described in subsection (a).

(ii) ENFORCEMENT ACTIVITIES RELATING TO NONCOMMERCIAL MOTOR VEHICLES.—A State may not use more than 5 percent of the total amount of grants received by the State under this subsection in a fiscal year for enforcement activities relating to noncommercial motor vehicles described in subparagraph (B)(ii) unless the Secretary determines a higher percentage will result in significant increases in commercial motor vehicle safety.

(g) ANNUAL REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual report that—

(1) analyzes commercial motor vehicle safety trends among the States and documents the most effective commercial motor vehicle safety programs implemented with grants under this section;

(2) describes the effect of activities carried out with grants made under this section on commercial motor vehicle safety; and

(3) documents the number and rate of fatalities and crashes involving commercial motor vehicles by State.

§ 31103. United States Government's share of costs

(a) COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS AND ENFORCEMENT.—The Secretary of Transportation shall reimburse a State, from a grant made under this subchapter, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in developing and implementing programs to improve commercial motor vehicle safety and enforce commercial motor vehicle regulations, standards, or orders adopted under this subchapter or subchapter II of this chapter. In determining those costs, the Secretary shall include in-kind contributions by the State. Amounts of the State and its political subdivisions required to be expended under ⟦section 31102(b)(1)(E) of this title⟧ *section 31102(b)(3)* may not be included as part of the share not provided by the United States Government. Amounts generated under the unified carrier registration agreement under section 14504a and received by a State and used for motor carrier safety purposes may be included as part of the State's share not provided by the United States. The Secretary may allocate among the States whose applications for grants have been approved those amounts appropriated

for grants to support those programs, under criteria that may be established.

[(b) OTHER ACTIVITIES.—The Secretary may reimburse State agencies, local governments, or other persons up to 100 percent for public education activities authorized by section 31104(f)(2).]

(b) NEW ENTRANT MOTOR CARRIER SAFETY REVIEWS.—

(1) INCREASE IN SHARE OF COSTS.—Subject to paragraph (2), the Secretary may reimburse a State an amount that is up to 100 percent of the costs incurred by the State in a fiscal year for new entrant motor carrier safety reviews conducted under section 31144(g).

(2) LIMITATION.—The increased Federal share provided under paragraph (1) shall apply with respect to reimbursements of costs described in paragraph (1) made using not more than 20 percent of the funds allocated to a State under section 31104(f) for a fiscal year. Any such reimbursements made using an amount in excess of 20 percent of such funds shall be subject to the cost-sharing requirements of subsection (a).

§ 31104. Availability of amounts

[(a) IN GENERAL.—Subject to subsection (f), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102—

[(1) $188,480,000 for fiscal year 2005;
[(2) $188,000,000 for fiscal year 2006;
[(3) $197,000,000 for fiscal year 2007;
[(4) $202,000,000 for fiscal year 2008;
[(5) $209,000,000 for fiscal year 2009;
[(6) $209,000,000 for fiscal year 2010;
[(7) $209,000,000 for fiscal year 2011; and
[(8) $212,000,000 for fiscal year 2012.]

(a) IN GENERAL.—Subject to subsection (f), there is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) to carry out section 31102 $247,000,000 for each of fiscal years 2013 through 2016.

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[(e) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under subsection (a) of this section for that fiscal year, not more than 1.25 percent of those amounts for administrative expenses incurred in carrying out section 31102 of this title in that fiscal year. The Secretary shall use at least 75 percent of those deducted amounts to train non-Government employees and to develop related training materials in carrying out section 31102.

[(f) ALLOCATION CRITERIA AND ELIGIBILITY.—On October 1 of each fiscal year or as soon after that date as practicable and after making the deduction under subsection (e), the Secretary shall allocate amounts made available to carry out section 31102 for such fiscal year among the States with plans approved under section 31102. Such allocation shall be made under such criteria as the Secretary prescribes by regulation.]

(e) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—On October 1 of each fiscal year (or as soon after that date as practicable), the Secretary may deduct, from

amounts made available under subsection (a) for that fiscal year, not more than 1.25 percent of those amounts for administrative expenses incurred in carrying out section 31102 in that fiscal year.

(2) TRAINING.—The Secretary shall use at least 75 percent of the amounts deducted under paragraph (1) to train non-Government employees and to develop related training materials in carrying out section 31102.

(f) ALLOCATION CRITERIA.—

(1) IN GENERAL.—On October 1 of each fiscal year (or as soon after that date as practicable) and after making the deduction under subsection (e), the Secretary shall allocate amounts made available to carry out section 31102 for such fiscal year among the States that are eligible for grant funds under section 31102(f)(2).

(2) ALLOCATION FORMULA.—The amounts made available to carry out section 31102 shall be allocated among the States in the following manner:

(A) 20 percent in the ratio that—

(i) the total public road mileage in each State; bears to

(ii) the total public road mileage in all States.

(B) 20 percent in the ratio that—

(i) the total vehicle miles traveled in each State; bears to

(ii) the total vehicle miles traveled in all States.

(C) 20 percent in the ratio that—

(i) the total population of each State (as shown in the annual census estimates issued by the Bureau of the Census); bears to

(ii) the total population of all States (as shown in the annual census estimates issued by the Bureau of the Census).

(D) 20 percent in the ratio that—

(i) the total special fuel consumption (net after reciprocity adjustment) in each State (as determined by the Secretary); bears to

(ii) the total special fuel consumption (net after reciprocity adjustment) in all States (as determined by the Secretary).

(E) 10 percent only to those States that share a land border with another country and conduct border commercial motor vehicle safety programs and related activities (in this subparagraph referred to as a "border State"), with—

(i) 70 percent of such amount to be allocated among border States in the ratio that—

(I) the total number of international commercial motor vehicle inspections conducted within the boundaries of each border State (as determined by the Secretary); bears to

(II) the total number of international commercial motor vehicle inspections conducted within the boundaries of all border States (as determined by the Secretary); and

(ii) 30 percent of such amount to be allocated among border States in the ratio that—

(I) the total number of land border crossing locations with State-maintained commercial motor vehicle safety enforcement infrastructure within the boundaries of each border State (as determined by the Secretary); bears to

(II) the total number of land border crossing locations with State-maintained commercial motor vehicle safety enforcement infrastructure within the boundaries of all border States (as determined by the Secretary).

(F) 10 percent only to those States that reduce the rate of large truck-involved fatal accidents in the State for the most recent calendar year for which data are available when compared to the average rate of large truck-involved fatal accidents in the State for the 10-year period ending on the last day preceding that calendar year (in this subparagraph referred to as an "eligible State"), with—

(i) 25 percent of such amount to be allocated among eligible States in the ratio that—

(I) the total public road mileage in each eligible State; bears to

(II) the total public road mileage in all eligible States;

(ii) 25 percent of such amount to be allocated among eligible States in the ratio that—

(I) the total vehicle miles traveled in each eligible State; bears to

(II) the total vehicle miles traveled in all eligible States;

(iii) 25 percent of such amount to be allocated among eligible States in the ratio that—

(I) the total population of each eligible State (as shown in the annual census estimates issued by the Bureau of the Census); bears to

(II) the total population of all eligible States (as shown in the annual census estimates issued by the Bureau of the Census); and

(iv) 25 percent of such amount to be allocated among eligible States in the ratio that—

(I) the total special fuel consumption (net after reciprocity adjustment) in each eligible State (as determined by the Secretary); bears to

(II) the total special fuel consumption (net after reciprocity adjustment) in all eligible States (as determined by the Secretary).

(3) MAXIMUM AND MINIMUM ALLOCATIONS.—

(A) MAXIMUM ALLOCATION.—The allocation under subparagraphs (A) through (D) of paragraph (2) for a fiscal year to each State (excluding the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands) shall be not greater than 4.944 percent of the total allocation under those subparagraphs in that fiscal year.

(B) MINIMUM ALLOCATION.—The allocation under paragraph (2) for a fiscal year to each State (excluding the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands) shall be not less than 0.44 percent of the total allocation under that paragraph in that fiscal year.

(C) ALLOCATION TO TERRITORIES.—The annual allocation to each of the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall be $350,000.

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(i) ADMINISTRATIVE EXPENSES.—

[(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

[(A) $254,849,000 for fiscal year 2005;
[(B) $213,000,000 for fiscal year 2006;
[(C) $223,000,000 for fiscal year 2007;
[(D) $228,000,000 for fiscal year 2008;
[(E) $234,000,000 for fiscal year 2009;
[(F) $239,828,000 for fiscal year 2010;
[(G) $244,144,000 for fiscal year 2011; and
[(H) $244,144,000 for fiscal year 2012.]

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration $244,144,000 for each of fiscal years 2013 through 2016.

* * * * * * *

(3) OUTREACH AND EDUCATION.—

(A) IN GENERAL.—Using the funds authorized by this subsection, the Secretary shall conduct an outreach and education program to be administered by the Administrator of the Federal Motor Carrier Safety Administration in cooperation with the Administrator of the National Highway Traffic Safety Administration.

(B) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

(i) A program to promote a more comprehensive and national effort to educate commercial motor vehicle operators and passenger vehicle drivers about how such operators and drivers can more safely share the road with each other.

(ii) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or contribute to crashes involving commercial motor vehicles and passenger vehicles.

(iii) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in clauses (i) and (ii) to each partner's constituents and to the general public

through the use of brochures, videos, paid and public advertisements, the Internet, and other media.

* * * * * * *

[(k) HIGH-PRIORITY ACTIVITIES.—

[(1) CRITERIA.—The Secretary shall establish safety performance criteria to be used to distribute high priority program funds under this subsection.

[(2) SET ASIDE.—The Secretary may set aside from amounts made available by subsection (a) up to $15,000,000 for each of fiscal years 2006 through 2012 for States, local governments, and organizations representing government agencies or officials described in paragraph (3) for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations (including activities and projects that are national in scope), increase public awareness and education, demonstrate new technologies, and reduce the number and rate of accidents involving commercial motor vehicles.

[(3) DESCRIPTION OF RECIPIENTS.—Amounts set aside under this subsection shall be allocated by the Secretary only to State agencies, local governments, and organizations representing government agencies or officials that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.

[(4) LIMITATION.—At least 90 percent of the amounts set aside for a fiscal year under this subsection shall be awarded in grants to State agencies and local government agencies.]

* * * * * * *

§ 31106. Information systems

(a) INFORMATION SYSTEMS AND DATA ANALYSIS.—

(1) * * *

* * * * * * *

(3) DATA ANALYSIS CAPACITY AND PROGRAMS.—The Secretary shall develop and maintain under this section data analysis capacity and programs that provide the means to—

(A) * * *

* * * * * * *

(F) ensure, to the maximum extent practical, all the data is complete, timely, and accurate across all information systems and initiatives; [and]

(G) establish and implement a national motor carrier safety data correction system[.]*; and*

(H) determine whether a motor carrier is or has been related, through common stock, common ownership, common control, common management, or common familial relationship to any other motor carrier.

* * * * * * *

[(b) PERFORMANCE AND REGISTRATION INFORMATION PROGRAM.—

[(1) INFORMATION CLEARINGHOUSE.—The Secretary]

(b) INFORMATION CLEARINGHOUSE.—The Secretary shall include, as part of the motor carrier information system authorized by this

section, a program to establish and maintain a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles, the registrants of such vehicles, and the motor carriers operating such vehicles. The clearinghouse and repository may include information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on motor carrier, commercial motor vehicle, and driver safety performance.

[(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

[(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

[(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

[(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

[(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);

[(B) possess or seek the authority to possess for a time period no longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

[(C) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(i)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order.

[(4) GRANTS.—From the funds authorized by section 31104(i), the Secretary may make a grant in a fiscal year to a State to implement the performance and registration information system management requirements of this subsection.]

* * * * * * *

[§ 31107. Border enforcement grants

[(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant in a fiscal year to an entity or State that shares a land border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

[(b) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a

level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State or the Federal Government ending before October 1, 2005, whichever the State designates.

[(c) GOVERNMENTS SHARE OF COSTS.—The Secretary shall reimburse a State under a grant made under this section an amount that is not more than 100 percent of the costs incurred by the State in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

[(d) AVAILABILITY AND REALLOCATION OF AMOUNTS.—Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are available to the Secretary for reallocation under this section.]

* * * * * * *

[§ 31109. Performance and registration information system management

[The Secretary of Transportation may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b).]

§ 31109. Performance and registration information systems management program

(a) IN GENERAL.—The Secretary shall carry out a performance and registration information systems management program to link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems as part of the motor carrier information system established under section 31106.

(b) DESIGN.—The program shall enable a State to—

(1) determine the safety fitness of a motor carrier or registrant—

(A) when licensing or registering the motor carrier or registrant; or

(B) while the license or registration is in effect; and

(2) deny, suspend, or revoke the commercial motor vehicle registration of a motor carrier or registrant to whom the Secretary has issued an operations out-of-service order.

(c) PROGRAM PARTICIPATION.—Not later than September 30, 2015, the Secretary shall require a State to participate in the program by—

(1) complying with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(a)(4);

(2) having in effect a law providing the State with the authority to impose the sanctions described in paragraph (3)(A) on the basis of an out-of-service order issued by the Secretary; and

(3) establishing and implementing a process, approved by the Secretary, to—

(A) deny, suspend, or revoke the vehicle registration or seize the registration plates of a commercial motor vehicle registered to a motor carrier to whom the Secretary has issued an out-of-service order; and

(B) reinstate the vehicle registration or return the registration plates of the commercial motor vehicle subject to sanctions under subparagraph (A) if the Secretary permits such carrier to resume operations after the date of issuance of such order.

(d) FUNDING.—A State may use grant funds made available to the State under section 4126 of SAFETEA–LU (119 Stat. 1738) for each of fiscal years 2013 through 2016 to meet the requirements of this section for participation in the program under subsection (c).

SUBCHAPTER II—LENGTH AND WIDTH LIMITATIONS

§ 31111. Length limitations

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

(1) * * *

* * * * * * *

(5) TRAILER TRANSPORTER TOWING UNIT.—The term "trailer transporter towing unit" means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

(6) TOWAWAY TRAILER TRANSPORTER COMBINATION.—The term "towaway trailer transporter combination" means a combination of vehicles consisting of a trailer transporter towing unit and 2 trailers or semitrailers—

(A) with a total weight that does not exceed 26,000 pounds; and

(B) in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.

(b) GENERAL LIMITATIONS.—(1) Except as provided in this section, a State may not prescribe or enforce a regulation of commerce that—

[(A) imposes a vehicle length limitation of less than 45 feet on a bus, of less than 48 feet on a semitrailer operating in a truck tractor-semitrailer combination, or of less than 28 feet on a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary of Transportation under subsection (e) of this section;]

(A) imposes a vehicle length limitation, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f)) and those classes of qualifying Federal-aid primary system highways designated by the Secretary of Transportation under subsection (e), of—

(i) less than 45 feet on a bus;

(ii) less than 53 feet on a semitrailer operating in a truck tractor-semitrailer combination; or

(iii) notwithstanding section 31112, less than 33 feet on a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination;

* * * * * * *

(E) has the effect of prohibiting the use of an existing semitrailer or trailer, of not more than 28.5 feet in length, in a truck tractor-semitrailer-trailer combination if the semitrailer or trailer was operating lawfully on December 1, 1982, within a 65-foot overall length limit in any State**[**; or**]***;*

(F) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motorsports competition events**[**.**]***;*

(G) imposes a vehicle length limitation of less than 80 feet on a stinger steered automobile transporter with a rear overhand of less than 6 feet;

(H) has the effect of imposing an overall length limitation of less than 82 feet on a towaway trailer transporter combination;

(I) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on a trailer used exclusively or primarily for the transport of livestock; or

(J) has the effect of prohibiting the use of a device designed by a bus manufacturer to affix to the rear of an intercity bus purchased after October 1, 2012, for use in carrying passenger baggage, if the device does not result in the bus exceeding 47 feet in total length.

* * * * * * *

§ 31114. Access to the Interstate System

(a) PROHIBITION ON DENYING ACCESS.—A State may not enact or enforce a law denying to a commercial motor vehicle subject to this subchapter or subchapter I of this chapter reasonable access between—

(1) * * *

(2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers, motor carriers of passengers, *a towaway trailer transporter combination as defined in section 31111(a),* or any truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

* * * * * * *

SUBCHAPTER III—SAFETY REGULATION

* * * * * * *

§ 31134. Requirement for registration and Department of Transportation number

(a) IN GENERAL.—An employer or an employee of the employer may operate a commercial motor vehicle in interstate commerce only if the Secretary of Transportation registers the employer under this

section and issues the employer a Department of Transportation number.

(b) REGISTRATION.—Upon application for registration and a Department of Transportation number under this section, the Secretary shall register the employer if the Secretary determines that—

(1) the employer is willing and able to comply with the requirements of this subchapter and chapter 51 if applicable; and

(2)(A) during the 3-year period before the date of the filing of the application, the employer was not related through common stock, common ownership, common control, common management, or common familial relationship to any other person subject to safety regulations under this subchapter who, during such 3-year period, was unwilling or unable to comply with the requirements of this subchapter or chapter 51 if applicable; or

(B) the employer has disclosed to the Secretary any relationship involving common stock, common ownership, common control, common management, or common familial relationship between that person and any other motor carrier.

(c) REVOCATION OR SUSPENSION.—The Secretary shall revoke or suspend the registration of an employer issued under subsection (b) if the Secretary determines that—

(1) the authority of the employer to operate as a motor carrier, freight forwarder, or broker pursuant to chapter 139 is revoked or suspended under section 13905(d)(1) or 13905(f); or

(2) the employer has willfully failed to comply with the requirements for registration set forth in subsection (b).

(d) COMMERCIAL REGISTRATION.—An employer registered under this section may not provide transportation subject to jurisdiction under subchapter I of chapter 135 unless the employer is also registered under section 13902 to provide such transportation.

(e) STATE AUTHORITY.—Nothing in this section shall be construed as affecting the authority of a State to issue a Department of Transportation number under State law to a person operating in intrastate commerce.

§ 31135. Duties of employers and employees

(a) * * *

* * * * * * *

(d) AVOIDING COMPLIANCE.—

(1) IN GENERAL.—Two or more employers shall not use common ownership, common management, common control, or common familial relationship to enable any or all such employers to avoid compliance, or mask or otherwise conceal noncompliance, or a history of noncompliance, with commercial motor vehicle safety regulations issued under this subchapter or an order of the Secretary issued under this subchapter or such regulations.

(2) PENALTY.—If the Secretary determines that actions described in the preceding sentence have occurred, the Secretary shall—

(A) deny, suspend, amend, or revoke all or part of any such employer's registration under sections 13905 and 31134; and

(B) take into account such noncompliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

[(d)] *(e)* DEFINITIONS.—In this section, the following definitions apply:

(1) * * *

* * * * * * *

§ 31138. Minimum financial responsibility for transporting passengers

(a) * * *

* * * * * * *

(e) NONAPPLICATION.—This section does not apply to a motor vehicle—

(1) * * *

* * * * * * *

(4) providing transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under [section 5307, 5310, or 5311] *section 5307, 5311, or 5317*, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; except that, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.

* * * * * * *

§ 31142. Inspection of vehicles

(a) * * *

[(b) INSPECTION OF VEHICLES AND RECORD RETENTION.—The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of an inspection. The standards shall provide for annual or more frequent inspections of a commercial motor vehicle unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system. Regulations prescribed under this subsection are deemed to be regulations prescribed under section 31136 of this title.]

(b) INSPECTION OF VEHICLES AND RECORD RETENTION.—

(1) REGULATIONS ON GOVERNMENT STANDARDS.—The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of such inspections.

(2) CONTENTS OF STANDARDS.—The standards shall provide for—

(A) annual or more frequent inspections of a commercial motor vehicle designed or used to transport property unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system; and

(B) annual or more frequent inspections of a commercial motor vehicle designed or used to transport passengers.

(3) TREATMENT OF REGULATIONS.—Regulations prescribed under this subsection shall be treated as regulations prescribed under section 31136.

(4) SPECIAL RULES FOR INSPECTION PROGRAM.—Any inspection required under paragraph (2)(B) shall be conducted by, or under a program established by, the State in which the vehicle is registered. A roadside inspection conducted by a State or other jurisdiction shall not be considered an inspection for the purposes of meeting the requirements of paragraph (2)(B).

* * * * * * *

§ 31144. Safety fitness of owners and operators

(a) * * *

* * * * * * *

(g) [SAFETY REVIEWS OF NEW OPERATORS] *NEW ENTRANT MOTOR CARRIER SAFETY REVIEWS.—*

[(1) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new operating authority, after the date on which section 31148(b) is first implemented, to undergo a safety review within the first 18 months after the owner or operator, as the case may be, begins operations under such authority.]

(1) SAFETY REVIEW.—The Secretary shall require, by regulation, each owner and operator issued a new registration under section 13902 or 31134 to undergo a safety review under this section—

(A) except as provided by subparagraphs (B) and (C), within the first 18 months after the date on which the owner or operator begins operations under such registration;

(B) in the case of an owner or operator with authority to transport hazardous materials, within the first 9 months after the date on which the owner or operator begins operations under such registration; and

(C) in the case of an owner or operator with authority to transport passengers, within the first 90 days after the date on which the owner or operator begins operations under such registration.

* * * * * * *

[(4) NEW ENTRANT AUTHORITY.—Notwithstanding any other provision of this title, any new operating authority granted after the date on which section 31148(b) is first implemented shall be designated as new entrant authority until the safety review required by paragraph (1) is completed.

[(5) NEW ENTRANT AUDITS.—

[(A) GRANTS.—The Secretary may make grants to States and local governments for new entrant motor carrier audits under this subsection without requiring a matching contribution from such States and local governments.

[(B) SET ASIDE.—The Secretary shall set aside from amounts made available by section 31104(a) up to $29,000,000 per fiscal year for audits of new entrant motor carriers conducted pursuant to this paragraph.

[(C) DETERMINATION.—If the Secretary determines that a State or local government is not able to use government employees to conduct new entrant motor carrier audits, the Secretary may use the funds set aside under this paragraph to conduct audits for such States or local governments.]

(4) NEW ENTRANT REGISTRATION.—

(A) IN GENERAL.—Notwithstanding any other provision of this title, any new registration issued under section 13902 or 31134 shall each be designated as new entrant registration until the safety review required by paragraph (1) is completed.

(B) REQUIREMENT FOR ISSUANCE OF PERMANENT OPERATING AUTHORITY.—A new registration issued to an owner or operator under section 13902 or 31134 shall become permanent after the owner or operator has passed the safety review required under paragraph (1).

(5) FUNDING.—

(A) IN GENERAL.—A State shall carry out the requirements of this section with funds allocated to the State under section 31104(f).

(B) DETERMINATION.—If the Secretary determines that a State or local government is not able to use government employees to conduct new entrant motor carrier safety reviews with funds allocated to the State under section 31104(f), the Secretary may conduct for the State or local government the safety reviews that the State or local government is not able to conduct with such funds.

(h) SAFETY REVIEWS OF OWNERS AND OPERATORS OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHICLES DESIGNED OR USED TO TRANSPORT PASSENGERS.—

(1) IN GENERAL.—Not later than September 30, 2015, the Secretary shall determine the safety fitness of each owner, and each operator, of a commercial motor vehicle designed or used to transport passengers who the Secretary registers, on or before September 30, 2014 (including before the date of enactment of this subsection), under section 13902 or 31134.

(2) SAFETY FITNESS RATING.—As part of the safety fitness determination required by paragraph (1), the Secretary shall assign a safety fitness rating to each owner and each operator described in paragraph (1).

(3) PERIODIC MONITORING.—

(A) PROCESS.—The Secretary shall establish a process, by regulation, for monitoring on a regular basis the safety performance of an owner or operator of a commercial motor vehicle designed or used to transport passengers, following the assignment of a safety rating to such owner or operator.

(B) ELEMENTS OF MONITORING AND SAFETY ENFORCEMENT.—Regulations issued under subparagraph (A) shall provide for the following:

(i) Monitoring of the safety performance, in critical safety areas (as defined by the Secretary, by regulation) of an owner or operator of a commercial motor vehicle designed or used to transport passengers (including by

activities conducted onsite at the offices of the owner or operator or offsite).

(ii) Increasingly more stringent interventions designed to correct unsafe practices of an owner or operator of a commercial motor vehicle designed or used to transport passengers.

(iii) Periodic updates to the safety fitness rating of an owner or operator if the Secretary determines that such update will improve the safety performance of the owner or operator.

(iv) Enforcement action, including determining that the owner or operator is not fit and may not operate a commercial motor vehicle under subsection (c)(2).

* * * * * * *

§ 31149. Medical program

(a) * * *

* * * * * * *

(c) MEDICAL STANDARDS AND REQUIREMENTS.—

(1) IN GENERAL.—The Secretary, with the advice of the Medical Review Board and the chief medical examiner, shall—

(A) * * *

* * * * * * *

[(D) develop, as appropriate, specific courses and materials for medical examiners listed in the national registry established under this section, and require those medical examiners to, at a minimum, self-certify that they have completed specific training, including refresher courses, to be listed in the registry;**]**

(D) develop requirements applicable to a medical examiner in order for the medical examiner to be listed in the national registry established under this section, including—

(i) specific courses and materials that must be completed;

(ii) at a minimum, self-certification requirements to verify that the medical examiner has completed specific training, including refresher courses, that the Secretary determines are necessary; and

(iii) an examination developed by the Secretary for which a passing grade must be achieved.

(E) require medical examiners to transmit the name of the applicant and numerical identifier, as determined by the Administrator of the Federal Motor Carrier Safety Administration, for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, electronically to the chief medical examiner on monthly basis; **[**and**]**

(F) periodically review a representative sample of the medical examination reports associated with the name and numerical identifiers of applicants transmitted under subparagraph (E) for errors, omissions, or other indications of improper certification**[**.**]***; and*

(G) review each year the implementation of commercial driver's license requirements of a minimum of 10 States to assess the accuracy, validity, and timeliness of—

(i) submission of physical examination reports and medical certificates to State licensing agencies; and

(ii) the processing of such submissions by State licensing agencies.

* * * * * * *

CHAPTER 313—COMMERCIAL MOTOR VEHICLE OPERATORS

Sec.
31301. Definitions.

* * * * * * *

31306a. National clearinghouse for records relating to alcohol and controlled substances testing.

* * * * * * *

[31313. Grants for commercial driver's license program improvements.]
31313. Grants for commercial driver's license program implementation.

* * * * * * *

§ 31306. Alcohol and controlled substances testing

(a) * * *

* * * * * * *

(j) APPLICATION OF PENALTIES.—*An employer, including an individual who is self-employed, shall be subject to civil and criminal penalties in accordance with section 521(b) for a violation of this section.* This section does not supersede a penalty applicable to an operator of a commercial motor vehicle under this chapter or another law.

§ 31306a. National clearinghouse for records relating to alcohol and controlled substances testing

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall establish and maintain an information system that will serve as a national clearinghouse for records relating to the alcohol and controlled substances testing program applicable to operators of commercial motor vehicles under section 31306.

(2) PURPOSES.—The purposes of the clearinghouse shall be—

(A) to improve compliance with the requirements of the testing program; and

(B) to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles.

(3) CONTENTS.—The clearinghouse shall be a repository of records relating to violations of the testing program by individuals submitted to the Secretary in accordance with this section.

(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure the ability for records to be submitted to the clearinghouse, and requested from the clearinghouse, on an electronic basis.

(5) DEADLINE.—The Secretary shall establish the clearinghouse not later than 1 year after the date of enactment of this section.

(b) EMPLOYMENT PROHIBITIONS.—

(1) IN GENERAL.—An employer may permit an individual to operate a commercial motor vehicle or perform any other safety sensitive function only if the employer makes a request for information from the clearinghouse at such times as the Secretary shall specify, by regulation, and the information in the clearinghouse at the time of the request indicates that the individual—

(A) has not violated the requirements of the testing program in the preceding 3-year period; or

(B) if the individual has violated the requirements of the testing program during that period, is eligible to return to safety sensitive duties pursuant to the return-to-duty process established under the testing program.

(2) VIOLATIONS.—For purposes of paragraph (1), an individual shall be considered to have violated the requirements of the testing program if the individual—

(A) has a confirmed or verified, as applicable, positive alcohol or controlled substances test result under the testing program;

(B) has failed or refused to submit to an alcohol or controlled substances test under the testing program; or

(C) has otherwise failed to comply with the requirements of the testing program.

(3) APPLICABILITY.—Paragraph (1) shall apply to an individual who performs a safety sensitive function for an employer as a full-time regularly employed driver, casual, intermittent, or occasional driver, or leased driver, or independent owner-operator contractor of such employer or, as determined by the Secretary, pursuant to another arrangement.

(4) WRITTEN NOTICE THAT CLEARINGHOUSE IS OPERATIONAL.—The Secretary shall issue a written notice when the Secretary determines that the clearinghouse is operational and employers are able to use the clearinghouse to meet the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

(5) EFFECTIVE DATE.—Paragraph (1) shall take effect on a date specified by the Secretary in the written notice issued under paragraph (4) that is not later than 30 days after the date of issuance of the written notice.

(6) CONTINUED APPLICATION OF EXISTING REQUIREMENTS.—Following the date on which paragraph (1) takes effect, an employer shall continue to be subject to the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section, for a period of 3 years or for such longer period as the Secretary determines appropriate.

(7) NOTICE OF REQUIREMENTS APPLICABLE TO EMPLOYERS.—The Secretary shall provide notice of the requirements applicable to employers under this section through published notices in the Federal Register.

(c) REPORTING OF RECORDS.—

(1) IN GENERAL.—The Secretary shall require employers and appropriate service agents, including medical review officers, to

submit to the Secretary for inclusion in the clearinghouse records of violations of the testing program by individuals described in subsection (b)(3).

(2) SPECIFIC REPORTING REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall require, at a minimum—

(A) a medical review officer to report promptly, as determined by the Secretary, to the clearinghouse—

(i) a verified positive controlled substances test result of an individual under the testing program; and

(ii) a failure or refusal of an individual to submit to a controlled substances test in accordance with the requirements of the testing program; and

(B) an employer (or, in the case of an operator of a commercial motor vehicle who is self-employed, the service agent administering the operator's testing program) to report promptly, as determined by the Secretary, to the clearinghouse—

(i) a confirmed positive alcohol test result of an individual under the testing program; and

(ii) a failure or refusal of an individual to provide a specimen for a controlled substances test in accordance with the requirements of the testing program.

(3) UPDATING OF RECORDS.—The Secretary shall ensure that a record in the clearinghouse is updated to include a return-to-duty test result of an individual under the testing program.

(4) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include all records of violations received pursuant to this subsection in the clearinghouse.

(5) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record.

(6) NOTIFICATION OF INDIVIDUALS.—The Secretary shall establish a process to provide notification to an individual of—

(A) a submission of a record to the clearinghouse relating to the individual; and

(B) any modification or deletion of a record in the clearinghouse pertaining to the individual, including the reason for the modification or deletion.

(7) TIMELY AND ACCURATE REPORTING.—The Secretary may establish additional requirements, as appropriate, to ensure timely and accurate reporting of records to the clearinghouse.

(8) DELETION OF RECORDS.—The Secretary shall delete a record of a violation submitted to the clearinghouse after a period of 3 years beginning on the date the individual is eligible to return to safety sensitive duties pursuant to the return-to-duty process established under the testing program.

(d) ACCESS TO CLEARINGHOUSE BY EMPLOYERS.—

(1) IN GENERAL.—The Secretary shall establish a process for an employer to request and receive records in the clearinghouse pertaining to an individual in accordance with subsection (b).

(2) WRITTEN CONSENT OF INDIVIDUALS.—An employer shall obtain the written consent of an individual before requesting any records in the clearinghouse pertaining to the individual.

(3) ACCESS TO RECORDS.—Upon receipt of a request for records from an employer under paragraph (1), the Secretary

shall provide the employer with access to the records as expeditiously as practicable.

(4) RECORDS OF REQUESTS.—The Secretary shall require an employer to maintain for a 3-year period—

(A) a record of each request made by the employer for records from the clearinghouse; and

(B) any information received pursuant to the request.

(5) USE OF RECORDS.—

(A) IN GENERAL.—An employer—

(i) may obtain from the clearinghouse a record pertaining to an individual only for the purpose of determining whether a prohibition applies with respect to the individual to operate a commercial motor vehicle or perform any other safety sensitive function under subsection (b)(1); and

(ii) may use the record only for such purpose.

(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives a record from the clearinghouse pertaining to an individual shall protect the privacy of the individual and the confidentiality of the record, including taking reasonable precautions to ensure that information contained in the record is not divulged to any person who is not directly involved in determining whether a prohibition applies with respect to the individual to operate a commercial motor vehicle or perform any other safety sensitive function under subsection (b)(1).

(e) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

(A) to learn whether a record pertaining to the individual is contained in the clearinghouse;

(B) to verify the accuracy of the record;

(C) to verify updates to the individual's record, including completion of a return-to-duty process under the testing program; and

(D) to learn of requests for information from the clearinghouse regarding the individual.

(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in a record pertaining to the individual in the clearinghouse, except that the appeal process shall not be used to dispute or remedy the validity of a controlled substance or alcohol test result.

(3) ACCESS TO RECORDS.—Upon receipt of a request for records from an individual under paragraph (1), the Secretary shall provide the individual with access to the records as expeditiously as practicable.

(f) ACCESS TO CLEARINGHOUSE BY CHIEF COMMERCIAL DRIVER LICENSING OFFICIALS.—

(1) IN GENERAL.—The Secretary shall establish a process for the chief commercial driver licensing official of a State to request and receive records pertaining to an individual from the clearinghouse.

(2) USE OF INFORMATION.—The chief commercial driver licensing official of a State may not obtain from the clearinghouse a record pertaining to an individual for any purpose other than to take an action related to a commercial driver's license for the individual under applicable State law or to comply with section 31311(a)(22).

(g) USE OF CLEARINGHOUSE INFORMATION FOR ENFORCEMENT PURPOSES.—The Secretary may use the records in the clearinghouse for the purposes of enforcement activities under this chapter.

(h) DESIGN OF CLEARINGHOUSE.—

(1) IN GENERAL.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

(A) registration, authorization, and authentication of a user of the clearinghouse;

(B) registration, authorization, and authentication of individuals required to report to the clearinghouse under subsection (c);

(C) preventing information from the clearinghouse from being accessed by unauthorized users;

(D) timely and accurate electronic submissions of data to the clearinghouse under subsection (c);

(E) timely and accurate access to records from the clearinghouse under subsections (d), (e), and (f); and

(F) updates to an individual's record related to compliance with the return-to-duty process under the testing program.

(2) ARCHIVE CAPABILITY.—The clearinghouse shall be designed to allow for an archive of the receipt, modification, and deletion of records for the purposes of auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse.

(3) SECURITY STANDARDS.—The clearinghouse shall be designed and administered in compliance with applicable Department of Transportation information technology security standards.

(4) INTEROPERABILITY WITH OTHER SYSTEMS.—In establishing the clearinghouse and developing requirements for data to be included in the clearinghouse, the Secretary, to the maximum extent practicable, shall take into consideration—

(A) existing information systems containing regulatory and safety data for motor vehicle operators;

(B) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

(C) the potential interoperability of the clearinghouse with existing and future information systems containing regulatory and safety data for motor vehicle operators.

(i) PRIVACY.—

(1) AVAILABILITY OF CLEARINGHOUSE INFORMATION.—The Secretary shall establish a process to make information available from the clearinghouse in a manner that is consistent with this section and applicable Federal information and privacy laws, including regulations.

(2) UNAUTHORIZED INDIVIDUALS.—The Secretary may not provide information from the clearinghouse to an individual who is not authorized by this section to receive the information.

(j) FEES.—

(1) AUTHORITY TO COLLECT FEES.—

(A) GENERAL AUTHORITY.—The Secretary may collect fees for requests for information from the clearinghouse.

(B) AMOUNT TO BE COLLECTED.—Fees collected under this subsection in a fiscal year shall equal as nearly as possible the costs of operating the clearinghouse in that fiscal year, including personnel costs.

(C) RECEIPTS TO BE CREDITED AS OFFSETTING COLLECTIONS.—The amount of any fee collected under this subsection shall be—

(i) credited as offsetting collections to the account that finances the activities and services for which the fee is imposed; and

(ii) available without further appropriation for such activities and services until expended.

(2) LIMITATION.—The Secretary shall ensure that an individual requesting information from the clearinghouse in order to dispute or remedy an error in a record pertaining to the individual pursuant to subsection (e)(2) may obtain the information without being subject to a fee authorized by paragraph (1).

(k) ENFORCEMENT.—An employer, and any person acting as a service agent, shall be subject to civil and criminal penalties for a violation of this section in accordance with section 521(b).

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

(1) CHIEF COMMERCIAL DRIVER LICENSING OFFICIAL.—The term "chief commercial driver licensing official" means the official in a State who is authorized—

(A) to maintain a record about a commercial driver's license issued by the State; and

(B) to take action on a commercial driver's license issued by the State.

(2) CLEARINGHOUSE.—The term "clearinghouse" means the clearinghouse to be established under subsection (a).

(3) EMPLOYER.—Notwithstanding section 31301, the term "employer" means a person or entity employing 1 or more employees (including an individual who is self-employed) that is subject to Department of Transportation requirements under the testing program. The term does not include a service agent.

(4) MEDICAL REVIEW OFFICER.—The term "medical review officer" means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated under the testing program and evaluating medical explanations for certain controlled substances test results.

(5) SAFETY SENSITIVE FUNCTION.—The term "safety sensitive function" has the meaning such term has under part 382 of title 49, Code of Federal Regulations, or any successor regulation.

(6) SERVICE AGENT.—The term "service agent" means a person or entity, other than an employee of an employer, who provides services covered by part 40 of title 49, Code of Federal Regulations, or any successor regulation, to employers or employees (or both) under the testing program, and the term includes a medical review officer.

(7) TESTING PROGRAM.—The term "testing program" means the alcohol and controlled substances testing program established under section 31306.

* * * * * * *

§ 31308. Commercial driver's license

After consultation with the States, the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers' licenses and learner's permits by the States and for information to be contained on each of the licenses and permits. The standards shall require at a minimum that—

[(1) an individual issued a commercial driver's license pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a) of this title;**]**

(1) an individual issued a commercial driver's license—

(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 4042 of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012;

§ 31309. Commercial driver's license information system

(a) * * *

* * * * * * *

(e) MODERNIZATION PLAN.—

(1) * * *

* * * * * * *

(4) DEADLINE FOR STATE PARTICIPATION.—

(A) IN GENERAL.—The Secretary shall establish in the plan a date by which all States must be operating commercial driver's license information systems that are compatible with the modernized information system under this section**[**.**]** *and must use the systems to receive and submit conviction and disqualification data.*

* * * * * * *

§ 31311. Requirements for State participation

(a) GENERAL.—To avoid having amounts withheld from apportionment under section 31314 of this title, a State shall comply with the following requirements:

(1) * * *

* * * * * * *

(5) **[**At least 60 days before issuing a commercial driver's license (or a shorter period the Secretary prescribes by regulation),**]** *Within the time period the Secretary prescribes by regulation,* the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the

case may be, of the proposed issuance of the license and other information the Secretary may require to ensure identification of the individual applying for the license.

* * * * * * *

(22) Before renewing or issuing a commercial driver's license to an individual, the State shall request information pertaining to the individual from the drug and alcohol clearinghouse maintained under section 31306a.

(23) The State shall ensure that the State's commercial driver's license information system complies with applicable Federal information technology standards.

* * * * * * *

(d) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

(1) IN GENERAL.—A State shall develop and submit to the Secretary for approval a plan for complying with the requirements of subsection (a) in the period beginning on the date that the plan is approved and ending on September 30, 2017.

(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

(A) the actions that the State must take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and

(B) other actions that the State must take to comply with the requirements of subsection (a).

(3) PRIORITY.—

(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2).

(B) DEADLINE FOR COMPLIANCE WITH REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the requirements of subsection (a) not later than September 30, 2017.

(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

(A) review a plan submitted by a State under paragraph (1); and

(B)(i) approve the plan if the Secretary determines that the plan is adequate to promote the objectives of this section; or

(ii) disapprove the plan.

(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under this subsection, the Secretary shall—

(A) provide the State a written explanation of the disapproval; and

(B) allow the State to modify and resubmit the plan for approval.

(6) PLAN UPDATES.—The Secretary may require States to review and update plans, as appropriate.

(e) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—On an annual basis, the Secretary shall—

(1) conduct a comparison of the relative levels of compliance by States with the requirements of subsection (a); and

(2) make available to the public the results of the comparison, using a mechanism that the Secretary determines appropriate.

* * * * * * *

§ 31313. Grants for commercial driver's license program [improvements] *implementation*

[(a) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENTS.—

[(1) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant to a State in a fiscal year—

[(A) to comply with the requirements of section 31311; and

[(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver's license program.

[(2) PURPOSES FOR WHICH GRANTS MAY BE USED.—

[(A) IN GENERAL.—A State may use grants under paragraphs (1)(A) and (1)(B) only for expenses directly related to its compliance with section 31311; except that a grant under paragraph (1)(B) may be used for improving implementation of the State's commercial driver's license program, including expenses for computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings.

[(B) PRIORITY.—In making grants under paragraph (1)(B), the Secretary shall give priority to States that will use such grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999, including the amendments made by such Act.

[(3) APPLICATION.—In order to receive a grant under this section, a State shall submit an application for such grant that is in such form, and contains such information, as the Secretary may require. The application shall include the State's assessment of its commercial driver's license program.

[(4) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this subsection only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for the State's commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State ending before the date of enactment of this section.

[(5) GOVERNMENT SHARE.—The Secretary shall reimburse a State under a grant made under this subsection an amount that is not more than 100 percent of the costs incurred by the State in a fiscal year in complying with section 31311 and improving its implementation of its commercial driver's license program. In determining such costs, the Secretary shall include in-kind contributions by the State. Amounts required to be expended by the State under paragraph (4) may not be included as part of the non-Federal share of such costs.

[(b) HIGH-PRIORITY ACTIVITIES.—

[(1) GRANTS FOR NATIONAL CONCERNS.—The Secretary may make a grant to a State agency, local government, or other person for 100 percent of the costs of research, development, demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances.

[(2) FUNDING.—The Secretary may deduct up to 10 percent of the amounts made available to carry out this section for a fiscal year to make grants under this subsection.

[(c) EMERGING ISSUES.—The Secretary may designate up to 10 percent of the amounts made available to carry out this section for a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.

[(d) APPORTIONMENT.—Except as otherwise provided in subsection (c), all amounts made available to carry out this section for a fiscal year shall be apportioned to States according to criteria prescribed by the Secretary.]

(a) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary of Transportation may make a grant to a State in a fiscal year to assist the State in complying with the requirements of section 31311.

(2) ELIGIBILITY.—A State shall be eligible for a grant under this subsection if the State has in effect a commercial driver's license program plan approved by the Secretary under section 31311(d).

(3) USES OF GRANT FUNDS.—A State may use grant funds under this subsection—

(A) to comply with section 31311; and

(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver's license program, including expenses—

(i) for computer hardware and software;

(ii) for publications, testing, personnel, training, and quality control;

(iii) for commercial driver's license program coordinators; and

(iv) to establish and implement a system to notify an employer of an operator of a commercial motor vehicle of a suspension or revocation of such operator's driver's license.

(C) PROHIBITIONS.—A State may not use grant funds under this subsection to rent, lease, or buy land or buildings.

(4) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this subsection only if the State provides assurances satisfactory to the Secretary that the total expenditure of amounts of the State and political subdivisions of the State (not including amounts of the United States) for the State's commercial driver's license program will be maintained

at a level that at least equals the average level of that expenditure by the State and political subdivisions of the State for the most recent 3 fiscal years ending before the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

(b) APPORTIONMENT.—

(1) APPORTIONMENT FORMULA.—Subject to paragraph (2), the amounts made available to carry out this section for a fiscal year shall be apportioned among the States in the ratio that—

(A) the number of commercial driver's licenses issued in each State; bears to

(B) the total number of commercial driver's licenses issued in all States.

(2) MINIMUM APPORTIONMENT.—The apportionment to each State that has in effect a commercial driver's license program plan approved by the Secretary under section 31311(d) shall be not less than one-half of 1 percent of the total funds available to carry out this section.

* * * * * * *

SUBTITLE X—MISCELLANEOUS

* * * * * * *

CHAPTER 805—MISCELLANEOUS

* * * * * * *

§ 80502. Transportation of animals

(a) * * *

* * * * * * *

(c) NONAPPLICATION.—[This section does not] *Subsections (a) and (b) do not* apply when animals are transported in a vehicle or vessel in which the animals have food, water, space, and an opportunity for rest.

(d) TRANSPORTATION OF HORSES.—

(1) PROHIBITION.—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing 2 or more levels stacked on top of each other.

(2) MOTOR VEHICLE DEFINED.—In this subsection, the term "motor vehicle" has the meaning given that term in section 13102.

[(d)] *(e)* CIVIL PENALTY.—[A rail carrier]

(1) IN GENERAL.—A rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel that knowingly and willfully violates [this section] *subsection (a) or (b)* is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. [On learning of a violation]

(2) TRANSPORTATION OF HORSES IN MULTILEVEL TRAILER.—

(A) CIVIL PENALTY.—A person that knowingly violates subsection (d) is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. A separate violation occurs under subsection (d) for each horse that is transported, or caused to be transported, in violation of subsection (d).

(B) RELATIONSHIP TO OTHER LAWS.—The penalty provided under subparagraph (A) shall be in addition to any penalty or remedy available under any other law or common law.

(3) CIVIL ACTION.—On learning of a violation of a provision of this section, the Attorney General shall bring a civil action to collect the penalty in the district court of the United States for the judicial district in which the violation occurred or the defendant resides or does business.

* * * * * * *

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

* * * * * * *

TITLE I—SURFACE TRANSPORTATION

* * * * * * *

Part A—Title 23 Programs

* * * * * * *

SEC. 1023. GROSS VEHICLE WEIGHT RESTRICTION.

(a) * * *

* * * * * * *

(h) OVER-THE-ROAD BUSES AND PUBLIC TRANSIT VEHICLES.—

(1) **[**TEMPORARY EXEMPTION**]** *EXEMPTION*.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways, shall not apply**[**, for the period beginning on October 6, 1992, and ending on October 1, 2009,**]** to—

(A) any over-the-road bus (as defined in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181)); **[**or**]**

(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus**[**.**]***; or*

(C) any motor home (as such term is defined in section 571.3 of title 49, Code of Federal Regulations).

(2) STATE ACTION.—

(A) WEIGHT LIMITATIONS.—**[**For the period beginning on the date of enactment of this subparagraph and ending on September 30, 2009, a**]** *A* covered State, including any political subdivision of such State, may not enforce a single axle weight limitation of less than 24,000 pounds, including enforcement tolerances, on any vehicle referred to in

paragraph (1) in any case in which the vehicle is using the Interstate System.

* * * * * * *

SEC. 1105. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) * * *

* * * * * * *

(e) PROVISIONS APPLICABLE TO CORRIDORS.—

(1) * * *

* * * * * * *

(5) INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM.—

(A) IN GENERAL.—The portions of the routes referred to in subsection (c)(1), subsection (c)(3) (relating solely to the Kentucky Corridor), clauses (i), (ii), and (except with respect to Georgetown County) (iii) of subsection (c)(5)(B), subsection (c)(9), subsections (c)(18) and (c)(20), subsection (c)(36), subsection (c)(37), subsection (c)(40), subsection (c)(42), subsection (c)(45), subsection (c)(54), and subsection (c)(57) that are not a part of the Interstate System are designated as future parts of the Interstate System. Any segment of such routes shall become a part of the Interstate System at such time as the Secretary determines [that the segment—

[(i) meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code; and

[(ii) connects to an existing Interstate System segment.] *that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code.*

* * * * * * *

TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) * * *

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

Sec. 1. Short title; table of contents.

* * * * * * *

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

* * * * * * *

[3038. Over-the-road bus accessibility program.]

* * * * * * *

TITLE IV—MOTOR CARRIER SAFETY

* * * * * * *

[Sec. 4023. Employee protections.]

* * * * * * *

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

* * * * * * *

[SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

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

[(1) INTERCITY, FIXED-ROUTE OVER-THE-ROAD BUS SERVICE.—The term "intercity, fixed-route over-the-road bus service" means regularly scheduled bus service for the general public, using an over-the-road bus, that—

[(A) operates with limited stops over fixed routes connecting 2 or more urban areas not in close proximity or connecting 1 or more rural communities with an urban area not in close proximity;

[(B) has the capacity for transporting baggage carried by passengers; and

[(C) makes meaningful connections with scheduled intercity bus service to more distant points.

[(2) OTHER OVER-THE-ROAD BUS SERVICE.—The term "other over-the-road bus service" means any other transportation using over-the-road buses including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that includes features in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions or the services of a tour guide).

[(3) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

[(b) GENERAL AUTHORITY.—The Secretary shall make grants under this section to operators of over-the-road buses to finance the incremental capital and training costs of complying with the Department of Transportation's final rule regarding accessibility of over-the-road buses required by section 306(a)(2)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12186(a)(2)(B)).

[(c) GRANT CRITERIA.—In selecting applicants for grants under this section, the Secretary shall consider—

[(1) the identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant;

[(2) the extent to which the applicant demonstrates innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities;

[(3) the extent to which the over-the-road bus operator acquires equipment required by the final rule prior to any required timeframe in the final rule;

[(4) the extent to which financing the costs of complying with the Department of Transportation's final rule regarding accessibility of over-the-road buses presents a financial hardship for the applicant; and

[(5) the impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals.

[(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

[(e) FEDERAL SHARE OF COSTS.—The Federal share of costs under this section shall be provided from funds made available to carry out this section and shall be determined in accordance with section 5323(i) of title 49, United States Code.

[(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to all of the terms and conditions applicable to subrecipients who provide intercity bus transportation under section 5311(f) of title 49, United States Code, and such other terms and conditions as the Secretary may prescribe.

[(g) FUNDING.—

[(1) INTERCITY, FIXED ROUTE OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

[(2) OTHER OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year, 25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.]

* * * * * * *

TITLE IV—MOTOR CARRIER SAFETY

* * * * * * *

[SEC. 4023. EMPLOYEE PROTECTIONS.

[Not later than 2 years after the date of enactment of this Act, the Secretary, in conjunction with the Secretary of Labor, shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code. The report shall include recommendations to address any statutory changes necessary to strengthen the enforcement of such employee protection provisions.]

* * * * * * *

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

* * * * * * *

TITLE II—UNIFORM RELOCATION ASSISTANCE

* * * * * * *

MOVING AND RELATED EXPENSES

SEC. 202. (a) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of—

(1) * * *

* * * * * * *

(4) actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed [$10,000] *$25,000, as adjusted by regulation, in accordance with section 213(d).*

* * * * * * *

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the head of the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall not be less than $1,000 nor more than [$20,000] *$40,000, as adjusted by regulation, in accordance with section 213(d)*. A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection.

* * * * * * *

REPLACEMENT HOUSING FOR HOMEOWNER

SEC. 203. (a)(1) In addition to payments otherwise authorized by this title, the head of the displacing agency shall make an additional payment not in excess of [$22,500] *$31,000, as adjusted by regulation, in accordance with section 213(d),* to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than [one hundred and eighty days prior to] *90 days before* the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(A) * * *

* * * * * * *

REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

SEC. 204. (a) In addition to amounts otherwise authorized by this title, the head of a displacing agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 203 which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days immediately prior to (1) the initiation of negotiations for acquisition of such dwelling, or (2) in any case in which displacement is not a direct result of acquisition, such other event as the head of the lead agency shall prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed 42 months, a comparable replace-

ment dwelling, but not to exceed [$5,250] *$7,200, as adjusted by regulation, in accordance with section 213(d)*. At the discretion of the head of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account such person's income.

(b) Any person eligible for a payment under subsection (a) of this section may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. Any such person may, at the discretion of the head of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection (a)[, except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling, such payment shall not exceed the payment such person would otherwise have received under section 203(a) of this Act had the person owned and occupied the displacement dwelling 180 days immediately prior to the initiation of such negotiations.].

* * * * * * *

DUTIES OF LEAD AGENCY

SEC. 213. (a) * * *

(b) The head of the lead agency is authorized to issue such regulations and establish such procedures as he may determine to be necessary to assure—

(1) * * *

(2) that a displaced person who makes proper application for a payment authorized for such person by this title shall be paid promptly after a move or, in hardship cases, be paid in advance; [and]

(3) that any aggrieved person may have his application reviewed by the head of the Federal agency having authority over the applicable program or project or, in the case of a program or project receiving Federal financial assistance, by the State agency having authority over such program or project or the Federal agency having authority over such program or project if there is no such State agency[.]*; and*

(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of this Act shall provide to the lead agency an annual summary report that describes the activities conducted by the Federal agency.

* * * * * * *

(d) ADJUSTMENT OF PAYMENTS.—The head of the lead agency may adjust, by regulation, the amounts of relocation payments provided under sections 202(a)(4), 202(c), 203(a), and 204(a) if the head of the lead agency determines that cost of living, inflation, or other factors indicate that the payments should be adjusted to meet the policy objectives of this Act.

SEC. 214. AGENCY COORDINATION.

(a) AGENCY CAPACITY.—Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to manage and oversee the relocation and acquisition program of the Federal agency in accordance with this Act.

(b) INTERAGENCY AGREEMENTS.—Not later than 1 year after the date of the enactment of this section, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that—

(1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that provides Federal financial assistance, may include personnel of any displacing agency that receives Federal financial assistance;

(2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with this Act on a program or project basis; and

(3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

(c) INTERAGENCY PAYMENTS.—

(1) IN GENERAL.—For the fiscal year that begins 1 year after the date of the enactment of this section, and each fiscal year thereafter, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than $35,000, to support the training, assistance, and coordination activities of the lead agency described in subsection (b).

(2) INCLUDED COSTS.—The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.

* * * * * * *

MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999

* * * * * * *

TITLE II—COMMERCIAL MOTOR VEHICLE AND DRIVER SAFETY

* * * * * * *

SEC. 229. CERTAIN EXEMPTIONS.

(a) EXEMPTIONS.—

[(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by

each State, to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies.]

(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations issued by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for a driver used by a motor carrier, shall not apply during a planting or harvest period of a State, as that period is determined by the State, to—

(A) drivers transporting agricultural commodities in the State from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;

(B) drivers transporting farm supplies for agricultural purposes in the State from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or

(C) drivers transporting farm supplies for agricultural purposes in the State from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.

* * * * * * *

SECTION 306 OF THE SAFETEA–LU TECHNICAL CORRECTIONS ACT OF 2008

SEC. 306. APPLICABILITY OF FAIR LABOR STANDARDS ACT REQUIREMENTS AND LIMITATION ON LIABILITY.

(a) * * *

* * * * * * *

(c) COVERED EMPLOYEE DEFINED.—In this section, the term "covered employee" means an individual—

(1) * * *

(2) whose work, in whole or in part, is defined—

(A) * * *

(B) as affecting the safety of operation of motor vehicles weighing 10,000 pounds or less in transportation on public highways in interstate or foreign commerce, except vehicles—

(i) * * *

(ii) designed or used to transport more than 15 passengers (including the driver) and not used to transport passengers for compensation; [or]

(iii) used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of title 49, United States Code, and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103 of title 49, United States Code; [and] *or*

(iv) operating under contracts with rail carriers subject to part A of subtitle IV of title 49, United States

Code, and used to transport employees of such rail carriers; and

* * * * * * *

SECTION 502 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

SEC. 502. DIRECT LOANS AND LOAN GUARANTEES.

(a) * * *

(b) ELIGIBLE PURPOSES.—

(1) IN GENERAL.—Direct loans and loan guarantees under this section shall be used to—

(A) * * *

* * * * * * *

(C) develop or establish new intermodal or railroad facilities*, including high-speed rail (as defined in section 26105(2) of title 49, United States Code) facilities*.

* * * * * * *

(c) PRIORITY PROJECTS.—In granting applications for direct loans or guaranteed loans under this section, the Secretary shall give priority to projects that—

(1) enhance public safety*, including projects for the installation of positive train control systems as defined in section 20157(i) of title 49, United States Code*;

* * * * * * *

(f) INFRASTRUCTURE PARTNERS.—

(1) AUTHORITY OF SECRETARY.—In lieu of or in combination with appropriations of budget authority to cover the costs of direct loans and loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990, the Secretary may accept on behalf of an applicant for assistance ⟦under this section a commitment⟧ *under this section private insurance, including bond insurance, or any other commitment* from a non-Federal source to fund in whole or in part credit risk premiums with respect to the loan that is the subject of the application. In no event shall the aggregate of appropriations of budget authority and credit risk premiums *or private insurance, including bond insurance,* described in this paragraph with respect to a direct loan or loan guarantee be less than the cost of that direct loan or loan guarantee.

* * * * * * *

(3) PAYMENT OF PREMIUMS.—Credit risk premiums under this subsection shall be paid to the Secretary before the disbursement of loan amounts*, or, at the discretion of the Secretary, in a series of payments over the term of the loan. If private insurance, including bond insurance, is used, the policy premium shall be paid before the loan is disbursed*.

* * * * * * *

(h) CONDITIONS OF ASSISTANCE.—(1) * * *

(2)*(A)* The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. Any

collateral provided or thereafter enhanced shall be valued as a going concern after giving effect to the present value of improvements contemplated by the completion and operation of the project. *Such collateral shall be valued at 100 percent of the liquidated asset valuation, or going concern valuation when applicable.* The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source. *The Secretary may subordinate rights of the Secretary under any provision of title 49 or title 23 of the United States Code, to the rights of the Secretary under this section and section 503.*

(B) In the case of an applicant that is a State, an Interstate compact, a local government authority as defined in section 5302 of title 49, United States Code, or a high-speed rail system as defined in section 26105 of title 49, United States Code, the Secretary shall, for purposes of making a finding under subsection (g)(4), accept the net present value on a future stream of State or local subsidy income or dedicated revenue as collateral offered to secure the loan.

(C) For purposes of making a finding under subsection (g)(4) with respect to an application for a project for the installation of positive train control systems, the collateral value of that asset shall be deemed to be equal to the total cost of the labor and materials associated with installing the positive train control systems.

* * * * * * *

(i) TIME LIMIT FOR APPROVAL OR [DISAPPROVAL.—Not later than 90 days after receiving] *DISAPPROVAL.—*

(1) IN GENERAL.—Not later than 90 days after an application is determined pursuant to paragraph (2) to be a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application. *In order to enable compliance with such time limit, the Office of Management and Budget shall take any actions required with respect to the application within such 90-day period.*

(2) COMPLETION OF APPLICATION.—The Secretary shall establish procedures for making a determination not later than 45 days after submission of an application under this section whether the application is complete. Such procedures shall—

(A) provide for a checklist of the required components of a complete application;

(B) provide that an independent financial analyst be assigned within 45 days of submittal to review the application;

(C) require the Secretary to provide to the applicant a description of the specific components of the application that remain incomplete or unsatisfactory if an application is determined to be incomplete; and

(D) permit reapplication without prejudice for applications determined to be incomplete or unsatisfactory.

(j) REPAYMENT SCHEDULES.—

(1) * * *

* * * * * * *

(3) TREATMENT OF COSTS ASSOCIATED WITH DEFERRAL.—Any additional costs associated with a deferred repayment schedule under paragraph (1) may be financed over the remaining term

of the loan beginning at the time the payments begin, or may be included in the credit risk premium determined under subsection (f)(2).

(k) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and annually thereafter, the Secretary shall transmit to the Congress a report on the program under this section that summarizes the number of loans approved and disapproved by the Secretary during the previous year. Such report shall not disclose the identity of loan or loan guarantee recipients. The report shall describe—

(1) the number of preapplication meetings with potential applicants;

(2) the number of applications received and determined complete under subsection (i)(2), including the requested loan amounts;

(3) the dates of receipt of applications;

(4) the dates applications were determined complete under subsection (i)(2);

(5) the number of applications determined incomplete under subsection (i)(2);

(6) the final decision dates for both approvals and denials of applications;

(7) the number of applications withdrawn from consideration; and

(8) the annual loan portfolio asset quality.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out subsections (f)(3) and (j)(3), $50,000,000 for fiscal year 2013.

PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008

* * * * * * *

DIVISION B—AMTRAK

* * * * * * *

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OPERATING EXPENSES.

(a) OPERATING GRANTS.—There are authorized to be appropriated to the Secretary for the use of Amtrak for operating costs the following amounts:

(1) * * *

* * * * * * *

(4) For fiscal year 2012, **[**$616,000,000**]** *$466,000,000*.

(5) For fiscal year 2013, **[**$631,000,000**]** *$473,250,000*.

* * * * * * *

TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

* * * * * * *

SEC. 209. STATE-SUPPORTED ROUTES.

(a) * * *

* * * * * * *

(c) REVIEW.—If Amtrak and the States (including the District of Columbia) in which Amtrak operates such routes do not voluntarily adopt and implement the methodology developed under subsection (a) in allocating costs and determining compensation for the provision of service in accordance with the date established therein, the Surface Transportation Board shall determine the appropriate methodology required under subsection (a) for such services in accordance with the procedures and procedural schedule applicable to a proceeding under section 24904(c) of title 49, United States Code, and require the full implementation of this methodology with regards to the provision of such service [within 1 year after the Board's determination] *by the first day of the first fiscal year beginning at least 1 year after the Board's determination* of the appropriate methodology.

* * * * * * *

RAIL SAFETY IMPROVEMENT ACT OF 2008

DIVISION A—RAIL SAFETY

SEC. 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF TITLE 49.

(a) SHORT TITLE.—This division may be cited as the "Rail Safety Improvement Act of 2008".

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

Sec. 1. Short title; table of contents; amendment of title 49.

* * * * * * *

TITLE III—FEDERAL RAILROAD ADMINISTRATION

* * * * * * *

Sec. 307. Update of Federal Railroad Administration's [website] *Web site*.

* * * * * * *

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

* * * * * * *

Sec. 403. [Track inspection time study] *Study and rulemaking on track inspection time; rulemaking on concrete cross ties*.

* * * * * * *

Sec. 408. Study of repeal of [Conrail] *Consolidated Rail Corporation* provision.

* * * * * * *

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER [SOLID WASTE FACILITIES] *SOLID WASTE RAIL TRANSFER FACILITIES*

* * * * * * *

Sec. 602. Clarification of general jurisdiction over [solid waste transfer facilities] *solid waste rail transfer facilities*.

* * * * * * *

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this division:

(1) CROSSING.—The term "crossing" means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks at grade, where—

(A) * * *

* * * * * * *

SEC. 102. RAILROAD SAFETY STRATEGY.

(a) SAFETY GOALS.—In conjunction with existing federally-required and voluntary strategic planning efforts ongoing at the Department and the Federal Railroad Administration as of the date of enactment of this Act, the Secretary shall develop a long-term strategy for improving railroad safety to cover a period of not less than 5 years. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

(1) * * *

* * * * * * *

[(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic failures and other bridge and tunnel failures.]

(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic and other failures of such infrastructure.

* * * * * * *

TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

* * * * * * *

SEC. 206. OPERATION LIFESAVER.

(a) GRANT.—The Federal Railroad Administration shall make a grant or grants to Operation Lifesaver to carry out a public information and education program to help prevent and reduce pedestrian, motor vehicle, and other accidents, incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at highway-rail grade crossings. The program shall include, as appropriate, development, placement, and dissemination of [Public Service Announcements] *public service announcements* in newspaper, radio, television, and other media. The program shall also include, as appropriate, school presentations, brochures and materials, support for public awareness campaigns, and related support for the activities of Operation Lifesaver's member organizations. As part of an educational program funded by grants awarded under this section, Operation Lifesaver shall provide information to the

public on how to identify and report to the appropriate authorities unsafe or malfunctioning highway-rail grade crossings.

* * * * * * *

TITLE III—FEDERAL RAILROAD ADMINISTRATION

* * * * * * *

SEC. 307. UPDATE OF FEDERAL RAILROAD ADMINISTRATION'S [WEBSITE] *WEB SITE*.

(a) IN GENERAL.—The Secretary shall update the Federal Railroad Administration's public [website] *Web site* to better facilitate the ability of the public, including those individuals who are not regular users of the public [website] *Web site*, to find current information regarding the Federal Railroad Administration's activities.

(b) PUBLIC REPORTING OF VIOLATIONS.—On the Federal Railroad Administration's public [website's] *Web site's* home page, the Secretary shall provide a mechanism for the public to submit written reports of potential violations of Federal railroad safety and hazardous materials transportation laws, regulations, and orders to the Federal Railroad Administration.

* * * * * * *

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

* * * * * * *

SEC. 403. [TRACK INSPECTION TIME STUDY] *STUDY AND RULEMAKING ON TRACK INSPECTION TIME; RULEMAKING ON CONCRETE CROSS TIES*.

(a) * * *

* * * * * * *

SEC. 405. LOCOMOTIVE CAB STUDIES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, through the Railroad Safety Advisory Committee if the Secretary makes such a request, shall complete a study on the safety impact of the use of personal electronic devices, including [cell phones] *cellular telephones*, video games, and other distracting devices, by safety-related railroad employees (as defined in section 20102(4) of title 49, United States Code), during the performance of such employees' duties. The study shall consider the prevalence of the use of such devices.

* * * * * * *

(d) AUTHORITY.—Based on the conclusions of the study required under (a), the [Secretary of Transportation] *Secretary* may prohibit the use of personal electronic devices, such as cell phones, video games, or other electronic devices that may distract employees from safely performing their duties, unless those devices are being used according to railroad operating rules or for other work purposes. Based on the conclusions of other studies conducted under

subsection (b), the Secretary may prescribe regulations to improve elements of the cab environment to protect an employee's health and safety.

* * * * * * *

SEC. 408. STUDY OF REPEAL OF [CONRAIL] *CONSOLIDATED RAIL CORPORATION* PROVISION.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a study of the impacts of repealing section 711 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797j). Not later than 6 months after completing the study, the Secretary shall transmit a report with the Secretary's findings, conclusions, and recommendations to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

* * * * * * *

SEC. 412. ALCOHOL AND CONTROLLED SUBSTANCE TESTING FOR MAINTENANCE-OF-WAY EMPLOYEES.

Not later than 2 years following the date of enactment of this Act, the [Secretary of Transportation] *Secretary* shall complete a rulemaking proceeding to revise the regulations prescribed under section 20140 of title 49, United States Code, to cover all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities.

* * * * * * *

SEC. 414. TUNNEL INFORMATION.

Not later than 120 days after the date of enactment of this Act, each railroad carrier shall, with respect to each of its tunnels which—

(1) * * *

(2) carry 5 or more scheduled passenger trains per day, or 500 or more carloads of poison- or toxic-by-inhalation hazardous materials (as defined in [parts 171.8, 173.115,] *sections 171.8, 173.115,* and 173.132 of title 49, Code of Federal Regulations) per year,

maintain, for at least two years, historical documentation of structural inspection and maintenance activities for such tunnels, including information on the methods of ingress and egress into and out of the tunnel, the types of cargos typically transported through the tunnel, and schematics or blueprints for the tunnel, when available. Upon request, a railroad carrier shall provide periodic briefings on such information to the governments of the local jurisdiction in which the tunnel is located, including updates whenever a repair or rehabilitation project substantially alters the methods of ingress and egress. Such governments shall use appropriate means to protect and restrict the distribution of any security sensitive information (as defined in [part 1520.5] *section 1520.5* of title 49, Code of Federal Regulations) provided by the railroad carrier under this section, consistent with national security interests.

* * * * * * *

SEC. 416. SAFETY INSPECTIONS IN MEXICO.

Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws

or regulations unless the [Secretary of Transportation] *Secretary* certifies that—

(1) * * *

* * * * * * *

(4) the Federal Railroad Administration is permitted to perform onsite inspections for the purpose of ensuring compliance with the requirements of this [subsection] *section*.

SEC. 417. RAILROAD BRIDGE SAFETY ASSURANCE.

(a) * * *

* * * * * * *

(c) USE OF BRIDGE MANAGEMENT PROGRAMS REQUIRED.—The Secretary shall instruct bridge experts to obtain copies of the most recent bridge management programs of [each railroad] *each railroad carrier* within the expert's areas of responsibility, and require that experts use those programs when conducting bridge observations.

* * * * * * *

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

* * * * * * *

SEC. 503. ESTABLISHMENT OF TASK FORCE.

(a) * * *

(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) a model plan to assist rail passenger carriers in responding to [passenger rail accidents] *rail passenger accidents*;

(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a [passenger rail accident] *rail passenger accident*;

(3) recommendations on methods to ensure that the families of passengers involved in a [passenger rail accident] *rail passenger accident* who are not citizens of the United States receive appropriate assistance; and

(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate [a count of the number of passengers onboard the train] *a count of the number of passengers aboard the train* as possible.

* * * * * * *

(d) DEFINITIONS.—In this section, the terms "passenger" and "rail passenger accident" have the meaning given those terms by section 1139 of this title.

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER [SOLID WASTE FACILITIES] *SOLID WASTE RAIL TRANSFER FACILITIES*

* * * * * * *

SEC. 602. CLARIFICATION OF GENERAL JURISDICTION OVER [SOLID WASTE TRANSFER FACILITIES] *SOLID WASTE RAIL TRANSFER FACILITIES*.

(a) * * *

* * * * * * *

DINGELL-JOHNSON SPORT FISH RESTORATION ACT

* * * * * * *

SEC. 4. (a) IN GENERAL.—[For each of fiscal years 2006 through 2012, the balance of each annual] *For each fiscal year through fiscal year 2016, the balance of each annual* appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:

(1) * * *

* * * * * * *

(b) SET-ASIDE FOR EXPENSES FOR ADMINISTRATION OF THE DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—

(1) IN GENERAL.—

(A) SET-ASIDE FOR ADMINISTRATION.—[From the annual appropriation made in accordance with section 3, for each of fiscal years 2006 through 2012, the Secretary] *From the annual appropriation made in accordance with section 3 for each fiscal year through fiscal year 2016, the Secretary* of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9. The amount specified in subparagraph (B) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) for the fiscal year.

[(B) AVAILABLE AMOUNTS.—The available amount referred to in subparagraph (A) is—

[(i) for each of fiscal years 2001 and 2002, $9,000,000;

[(ii) for fiscal year 2003, $8,212,000; and

[(iii) for fiscal year 2004 and each fiscal year thereafter, the sum of—

[(I) the available amount for the preceding fiscal year; and

[(II) the amount determined by multiplying—

[(aa) the available amount for the preceding fiscal year; and

[(bb) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.]

(B) AVAILABLE AMOUNTS.—The available amount referred to in subparagraph (A) is, for each fiscal year, the sum of—

(i) the available amount for the preceding fiscal year; and

(ii) the amount determined by multiplying—

(I) the available amount for the preceding fiscal year; and

(II) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

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INTERNAL REVENUE CODE OF 1986

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Subtitle I—Trust Fund Code

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CHAPTER 98—TRUST FUND CODE

* * * * * * *

Subchapter A—Establishment of Trust Funds

* * * * * * *

SEC. 9504. SPORT FISH RESTORATION AND BOATING TRUST FUND.

(a) * * *

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—

(1) * * *

(2) EXPENDITURES FROM TRUST FUND.—Amounts in the Sport Fish Restoration and Boating trust Fund shall be available, as provided by appropriation Acts, for making expenditures—

(A) to carry out the purposes of the Dingell-Johnson Sport Fish Restoration Act [(as in effect on the date of the enactment of the Surface Transportation Extension Act of 2011, Part II)] *(as in effect on the date of enactment of the Sportfishing and Recreational Boating Safety Act of 2012)*,

(B) to carry out the purposes of section 7404(d) of the Transportation Equity Act for the 21st Century [(as in effect on the date of the enactment of the Surface Transportation Extension Act of 2011, Part II)] *(as in effect on the date of enactment of the Sportfishing and Recreational Boating Safety Act of 2012)*, and

(C) to carry out the purposes of the Coastal Wetlands Planning, Protection and Restoration Act [(as in effect on the date of the enactment of the Surface Transportation

Extension Act of 2011, Part II)] *(as in effect on the date of enactment of the Sportfishing and Recreational Boating Safety Act of 2012)*.

* * * * * * *

(d) LIMITATION ON TRANSFERS TO TRUST FUND.—

(1) * * *

(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) [before April 1, 2012, in accordance] *before October 1, 2016, in accordance* with the provisions of this section.

* * * * * * *

TITLE 46, UNITED STATES CODE

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Subtitle II—Vesels and Seamen

* * * * * * *

PART I—STATE BOATING SAFETY PROGRAMS

* * * * * * *

CHAPTER 131—RECREATIONAL BOATING SAFETY

* * * * * * *

§ 13107. Authorization of appropriations

(a)(1) * * *

(2) The Secretary shall use not more than [two] *1.5* percent of the amount available each fiscal year for State recreational boating safety programs under this chapter to pay the costs of investigations, personnel, and activities related to administering those programs.

* * * * * * *

[(c)(1) Of the amount transferred to the Secretary under subsection (a)(2) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2)), $5,500,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which not less than $2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title.]

(c)(1) Of the amount transferred to the Secretary under section 4(a)(2) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2))—

(A) $6,000,000 is available to the Secretary for the payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which not less than $2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title; and

(B) $100,000 is available to fund the activities of the National Boating Safety Advisory Council established under this chapter.

* * * * * * *

DISSENTING VIEWS

In the wake of the greatest recession since the Great Depression, more than 2.5 million construction and manufacturing workers are still out of work. Passage of Federal surface transportation legislation is critical to both the nation's continued economic recovery and our long-term economic competitiveness. We desperately need increased infrastructure investment to create American jobs, restore our nation's economic growth, greatly improve quality of life in our communities, and reduce the nation's dependence on imported oil. If investment levels are adequate and directed toward the system's greatest needs, the benefits of this investment will reach every American and every business and offer reduced congestion, improved travel times, expanded transportation options, improved safety, and direct and indirect job creation.

We had hoped that the Committee on Transportation and Infrastructure would develop legislation demonstrating a commitment to reforming the nation's surface transportation programs to meet the needs of the 21st Century, and addressing the nation's well documented surface transportation needs. Unfortunately, H.R. 7 fails on both fronts. As reported by the Committee, the bill fails to provide the necessary investment levels to build the nation's surface transportation network, and undermines the intermodal nature of the nation's surface transportation system. In fact, the bill cuts Federal-aid highway investment by $15.8 billion—destroying 550,000 family-wage jobs over the coming years.

With the nation's surface transportation network at a crisis point, we are deeply troubled that, instead of coming together to build on the longstanding, bipartisan traditions of this Committee and develop a forward-looking proposal that meets nation's surface transportation infrastructure needs, our Republican colleagues have put forth a proposal that cuts funding, destroys jobs, undermines safety, and dramatically limits public participation in the surface transportation process. This bill is filled with special-interest provisions and ideological attacks on long-standing surface transportation programs and policies. In addition, the changes made by H.R. 3864, as reported by the Committee on Ways and Means, undermine the user-financed system that has provided dedicated revenues for both highway and public transit investment for decades.

We are saddened that, for the first time in the Committee's storied history, the majority is bringing a partisan surface transportation bill to the Floor. As currently drafted, this bill lacks credibility, and will not become law. We urge our Republican colleagues to end this partisan game and work with us to invest in our nation and put Americans back to work.

1. FUNDING AND REVENUES

We are particularly troubled with the impact of H.R. 7 on American jobs. Despite our Republican colleagues' insistence that H.R. 7 is a critical aspect of their job creation agenda, the legislation actually cuts Federal-aid highway investment by $15.8 billion when compared to the fiscal year 2011 investment level. This cut will destroy 550,000 family-wage jobs over the coming years. The Transportation Construction Coalition, which represents 28 national transportation construction and labor organizations, has written to the Committee that any cuts from current investment levels "are real, and all involved should be clear that this is a step away from job creation and preservation."

We are also very concerned that *only five States* will receive more in Federal-aid highway investment over the life of the bill when compared to a five-year investment total based on current law funding levels (FY 2011). As reported, H.R. 7 short-changes surface transportation investment, allowing the nation's infrastructure investment deficit to continue to grow, and significantly undermines the job creation potential of this legislation.

FEDERAL-AID HIGHWAY FUNDING

COMPARISON OF CURRENT LAW AND H.R. 7

[In dollars]

State	5-Year Investment Based on Current Law (FY 2011)	5-Year Investment Based on H.R. 7 (FY 2012–2016)	Difference
Alabama	3,936,513,785	3,577,320,987	−359,192,798
Alaska	2,601,654,825	1,562,249,935	−1,039,404,890
Arizona	3,796,307,150	3,529,808,058	−266,499,092
Arkansas	2,686,373,045	2,226,235,526	−460,137,519
California	19,043,669,975	18,319,117,341	−724,552,634
Colorado	2,774,530,160	2,684,197,639	−90,332,521
Connecticut	2,606,039,695	2,270,861,848	−335,177,847
Delaware	877,699,050	809,537,781	−68,161,269
District of Columbia	827,890,730	802,318,331	−25,572,399
Florida	9,830,701,585	8,949,798,846	−880,902,739
Georgia	6,699,554,405	6,168,169,871	−531,384,534
Hawaii	877,571,265	812,421,352	−65,149,913
Idaho	1,484,055,620	1,248,018,780	−236,036,840
Illinois	7,376,867,925	6,492,135,827	−884,732,098
Indiana	4,943,973,945	4,414,789,297	−529,184,648
Iowa	2,496,689,110	2,345,749,617	−150,939,493
Kansas	1,960,762,820	2,135,084,672	174,321,852
Kentucky	3,447,472,360	3,023,919,656	−423,552,704
Louisiana	3,641,649,935	3,109,807,385	−531,842,550
Maine	957,785,850	877,980,374	−79,805,476
Maryland	3,109,330,355	3,322,040,295	212,709,940
Massachusetts	3,151,260,980	3,182,985,435	31,724,455
Michigan	5,462,948,555	5,245,485,840	−217,462,715
Minnesota	3,383,394,820	3,070,272,344	−313,122,476
Mississippi	2,509,452,930	2,235,048,579	−274,404,351
Missouri	4,911,992,200	4,190,625,827	−721,366,373
Montana	2,128,864,565	1,612,281,940	−516,582,625
Nebraska	1,499,728,110	1,546,696,794	46,968,684
Nevada	1,884,077,085	1,476,268,498	−407,808,587
New Hampshire	857,281,050	824,643,931	−32,637,119
New Jersey	5,180,583,835	5,111,470,674	−69,113,161
New Mexico	1,905,403,175	1,773,405,471	−131,997,704
New York	8,709,302,770	8,103,420,242	−605,882,528

COMPARISON OF CURRENT LAW AND H.R. 7—Continued

[In dollars]

State	5-Year Investment Based on Current Law (FY 2011)	5-Year Investment Based on H.R. 7 (FY 2012–2016)	Difference
North Carolina	5,401,430,945	5,205,726,556	−195,704,389
North Dakota	1,288,163,500	1,286,572,625	−1,590,875
Ohio	6,954,907,100	6,521,011,770	−433,895,330
Oklahoma	3,290,688,480	2,907,164,872	−383,523,608
Oregon	2,593,421,530	2,294,326,235	−299,095,295
Pennsylvania	8,513,165,010	7,564,818,148	−948,346,862
Rhode Island	1,134,738,290	906,229,415	−228,508,875
South Carolina	3,257,529,525	3,218,463,389	−39,066,136
South Dakota	1,463,248,565	1,286,729,334	−176,519,231
Tennessee	4,384,546,675	3,940,348,353	−444,198,322
Texas	16,373,844,700	16,225,291,901	−148,552,799
Utah	1,671,634,775	1,512,605,524	−159,029,251
Vermont	1,053,052,205	812,816,960	−240,235,245
Virginia	5,280,022,395	4,919,101,465	−360,920,930
Washington	3,517,425,230	3,253,568,918	−263,856,312
West Virginia	2,267,507,355	1,813,712,495	−453,794,860
Wisconsin	3,904,064,605	3,282,857,230	−621,207,375
Wyoming	1,329,239,180	1,407,412,707	78,173,527
HIGHWAY FORMULA TOTAL	201,240,013,730	185,412,926,890	−15,827,086,840

Prepared by Committee on Transportation and Infrastructure Democratic staff based on information provided by the Federal Highway Administration (current law column) and Committee Republican staff (H.R. 7 column).

One of the most troubling aspects of the proposal is the source of funding for public transportation programs. Specifically, H.R. 3864, as ordered reported by the Committee on Ways and Means, eliminates the deposit of 2.86 cents of every gallon of gasoline into the Mass Transit Account of the Highway Trust Fund. Instead, the legislation transfers $40 billion from the General Fund to a new "Alternative Transportation Account" established to fund transit programs and four highway programs previously funded out of the Highway Trust Fund.

While we realize that this change is outside the jurisdiction of this Committee, we are appalled that our Republican colleagues have allowed this fundamental change in the funding of our surface transportation system to be adopted. By breaking the link between highways and transit and funding from the Trust Fund, this legislation represents the balkanization of surface transportation programs and leaves public transportation without a dedicated revenue source. Transit programs will have to compete with every other discretionary priority funded by the General Fund of the Treasury. A lack of dedicated revenue will further undermine the ability of public transportation providers to plan for long-term investments.

This short-sighted change to appease a minority of the Republican caucus who insist on cutting Federal spending at any cost is an inconceivable step backwards in surface transportation policy. More than 600 organizations agree with our view and have written letters of opposition to this financing mechanism.

2. BUY AMERICA

H.R. 7 also misses an opportunity to create more American jobs and to revive American manufacturing by failing to close all exist-

ing loopholes in Buy America laws. We acknowledge and support the adoption, during Committee consideration, of some provisions originally included in H.R. 3533, the "Invest in American Jobs Act of 2011", to prohibit the segmentation of highway, transit, and rail projects to evade Buy America requirements and the inclusion of more stringent notice requirements prior to the issuance of a waiver from Buy America rules. However, we are concerned that some of the changes in the bill to address environmental streamlining may undermine the application of these provisions. More importantly, H.R. 7 fails to close several gaping loopholes in Buy America laws.

Transit Rolling Stock Loophole: H.R. 7 continues to allow transit rolling stock procurements to be comprised of only 60 percent U.S.-made components. Currently, the Federal Transit Administration (FTA)'s regulations count the full cost of a component toward the domestic origin threshold if at least 60 percent of the subcomponents of the component are made in the United States. In practice, this means that a piece of rolling stock can be compliant with Buy America requirements even with as little as 36 percent of the total cost of the components of a bus or rail car being produced in the U.S. Despite the existing 60 percent domestic content standard for transit, foreign-owned railcar manufacturers and suppliers continue to keep higher-value manufacturing activities—such as design and engineering—in their home countries. Keeping higher-value manufacturing activities outside of the U.S. means far more jobs are created and sustained in the home countries of these companies, and innovation and capabilities continue to develop outside of the U.S. A full domestic content requirement will bring more jobs, skills, and economic activity to the U.S.

We strongly urge changes to H.R. 7 to ensure that rolling stock is subject to the same 100 percent domestic origin standards as steel, iron, and manufactured goods, and that the requirement to move from 60 percent to 100 percent be phased in over time. We strongly believe all future Federal investment in rolling stock should fully support American jobs. Some may argue that moving beyond 60 percent domestic content is impractical. In reality, as domestic content requirements increase, U.S. companies will step forward to fill the gap. In the last few years, as FTA has made waiver applications publicly available, several U.S. manufacturing companies have demonstrated their ability to produce transit bus and rail car components, such as software and streetcar rails, that were previously assumed to be unavailable domestically.

Rail Loopholes: The bill also fails to significantly strengthen and close loopholes for Buy America requirements applicable to rail projects. It fails to eliminate the exemptions from Buy America for Amtrak for capital projects that are less than $1 million, for high-speed and intercity passenger rail projects that are less than $100,000, and for the Railroad Rehabilitation and Improvement Financing (RRIF) loan program.

Waiver Loopholes: H.R. 7 also does not require the Secretary of Transportation to publish criteria to be used to determine whether a public interest waiver of Buy America requirements is warranted. Currently, the Secretary has complete discretion to decide on what basis to issue a public interest waiver, and these factors can vary

from wavier to wavier and from one Administration to the next. We urge inclusion of language to define and set forth specific criteria that will be used by the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, and Amtrak when considering whether to grant a public interest waiver. H.R. 7 also does not address the multitude of standing public interest and nationwide waivers that have been in place for decades. For instance, the Federal Highway Administration has a standing waiver for all manufactured goods, put in place during the initial rulemaking to implement Buy America in 1983. Similarly, the Federal Transit Administration has a general public interest waiver in place for software, even though software development is now done in the U.S. We believe that a review within one year, and every five years thereafter, of all such standing waivers is warranted.

3. Limiting Environmental Review and Public Participation for Highway and Rail Projects

The review process that is established under the National Environmental Policy Act (NEPA) and substantive environmental protections provided by a host of other Federal laws are intended to ensure that the impacts of transportation projects funded with Federal dollars are fully analyzed, other Federal agencies and the public have input into the decision-making process, a range of alternatives are considered, and environmental impacts are mitigated. Although H.R. 7 does not actually amend NEPA or other environmental laws directly, the effect of the legislation is to significantly limit or preclude their application to projects authorized under Title 23 and to rail projects. We have serious concerns that the changes made in the bill, which are extremely broad and far reaching, and significant detrimental impacts to both environmental review and public participation in the development and approval of such projects.

According to the Federal Highway Administration (FHWA), only about four percent of all projects funded through FHWA programs require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). Of the remaining projects funded by FHWA, 96 percent are processed as categorical exclusions—the least intensive environmental review process under NEPA—and all project review is completed, on average, in 2.4 to six months. In the case of FTA, 99 percent of projects are processed as categorical exclusions, and all review resolved, on average, in less than six months. Despite this, NEPA and other Federal environmental laws are frequently cited as the main cause of delays in project delivery. Available data shows, however, that a lack of funding, changes in project design and scope, low priority and local controversy, and the complexity of a project are generally cited as more significant factors in project delivery delay than environmental review.

Still, in an effort to improve the effectiveness of environmental review processes with respect to highway and transit projects, significant changes to Title 23 were made in the last reauthorization bill (Pub. L. 109–58). The majority of these changes have been implemented, and according to FHWA, the efficiency of environmental reviews has improved significantly since their adoption. Still, there

has been an ongoing push by our Republican counterparts to further limit environmental review under the guise of project streamlining. While we strongly support efficient review of projects to ensure timely project delivery, we believe it is possible to balance these needs with adequate opportunity for public input and environmental review. Unfortunately, H.R. 7 ignores that balance with respect to projects authorized under Title 23. Of further concern, the bill applies the same "streamlining" provisions part and parcel to rail projects that receive Federal funds, despite the fact that there is no data nor has the Committee held one hearing indicating a correlation between the NEPA review process and a delay in rail project delivery.

Waivers of NEPA for Certain Projects: The bill completely waives the application of NEPA for all highway and rail projects where the Federal share of the cost is less than $10 million or 15 percent of the cost of the project. This arbitrary threshold for declaring a project to be exempt from a NEPA review process ignores the potential scope and impacts of the project on both the environment and the local community. This arbitrary approach is of particular concern in cases where a large-scale project may have a Federal cost share that does not meet the percentage threshold. This outright waiver also means that the provisions to prohibit segmentation to avoid compliance with Buy America laws adopted during Committee consideration of the bill may not apply to these projects.

The bill would also exempt the reconstruction of any road, highway, bridge, or rail project that is damaged in an emergency from any further review under NEPA and a wide range of other environmental laws if replacement is in the same location, with the same capacity, dimension, and design as before the emergency. Although we strongly agree that the quick replacement of public infrastructure after an emergency is the highest priority, it is not clear why an exemption from environmental laws is needed to accomplish this goal. Currently, any facility rebuilt with Emergency Relief program funds are categorically excluded under NEPA. Additionally, the Council on Environmental Quality and other Federal agencies already have policies, procedures, and legal authorities in place to expedite any needed reviews, and there are numerous examples that demonstrate the ability to expedite emergency infrastructure decisions.

For instance, in the case of levees and other flood control structures damaged in the New Orleans metropolitan area after Hurricane Katrina, reconstruction took place in ten months. As another example, in the case of the 1–35W bridge collapse in Minneapolis, Minnesota, reconstruction took place in 339 days with no waiver of environmental laws. In both examples, the reconstruction activities were carried out in accordance with current environmental laws and regulations, which had virtually no impact on time required to complete the reconstruction work. However, in both situations, it was the availability of full funding for the projects that may have been the most important factor for their expedited completion. In our view, this fact highlights a major concern with the focus of this bill—it claims to expedite project delivery by eliminating substantive and procedural environmental protections, but shortchanges long-term funding of transportation programs. These ex-

amples show that the real causes of delay may be exactly the opposite of this bill's focus.

Limits on the Review Process: We are also concerned that, in addition to significantly limiting the universe of highway and rail projects that would be subject to review and public participation under NEPA, the bill places limitations on the review process itself. Specifically, H.R. 7 limits consideration of alternatives that would need to be considered as a project is analyzed; limits the assessment of cumulative impacts; mandates the use of certain documents in the review process and allows the use of documents that are not subject to agency consultation or judicial review; limits input by other Federal agencies and sets arbitrary timelines for agency participation that, if not met, deems the agencies to be in concurrence with the decisions of the Secretary of Transportation; establishes timelines for approvals or determinations under other Federal laws that, if not met, then the project is deemed to be in compliance with those laws; and limits or precludes judicial review in numerous circumstances.

Short Circuiting the Public Process: In addition, the bill allows States to acquire real property interests, carry out final design activities, and let contracts before a NEPA review process has been completed. This process raises serious questions about project outcomes being predetermined and undermines the public's role in the selection of a preferred alternative.

Again, while we support timely project delivery, it is already the case that the vast majority of projects require the minimal review process established under NEPA. For those remaining four or five percent of projects, it is understandable that, because of their size, complexity, or potential impact to local communities or the environment, a more robust Federal, state, and local review and input is warranted. To further limit or bias the review process of these larger and more complex projects that warrant a broader review and analysis, as this bill does, is to limit the ability of the public to fully consider alternatives and to ignore the potential impacts of these projects to the environment and the community.

State Delegation: For both highway and rail projects, the bill authorizes the Secretary of Transportation to establish a program that would allow States to use state laws and procedures to conduct reviews and make approvals in lieu of any Federal environmental laws and regulations if the Secretary determines the State's environmental review and approval procedures are "substantially equivalent" to the Federal laws and regulations. This delegation of authority has been allowed in the case of NEPA under a pilot program that only one State has taken advantage of to date. Although we support the continuation of this pilot program, a one-state pilot program does not provide enough information or data on which to make permanent changes to law that affect all States; nor does it provide the data that would support turning the implementation and enforcement of all Federal environmental laws over to the States.

In addition, in the case of other environmental laws, we are concerned that the Secretary of Transportation is charged with making a determination regarding the adequacy of state programs and not the Federal agencies responsible for and expert in these laws.

In other words, this bill gives the Secretary of Transportation the sole authority to delegate the statutory responsibilities and authorities of other Federal agencies. There is no requirement for the Secretary to receive the concurrence of these agencies before doing so. In addition, unlike the provisions set forth in the last reauthorization to grant States authority to assume the Secretary of Transportation's responsibilities for NEPA review, this new provision does not stipulate that States that assume these new responsibilities shall be solely responsible and solely liable for complying with and carrying out the laws and does not require States who establish such programs to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of these responsibilities. The fact that these requirements do not apply to this section, while they do apply to the responsibilities to carry out and enforce NEPA, would imply that no such assumption of responsibility is expected. We question, then, who would bear legal responsibility if Federal laws were not adequately implemented and enforced. This issue is further complicated by the fact that the bill stipulates compliance with a permit issued by a State under a Secretarially-approved program is deemed in compliance with Federal law regardless of whether the requirements of the Federal law are actually being met.

This provision also ignores the fact that several Federal laws, including the Clean Water Act and the Clean Air Act, already have a statutory process for delegating responsibilities to the States under certain circumstances. For example, under the Clean Water Act, 46 of 50 States have been approved by the Environmental Protection Agency (EPA) to manage their Clean Water Act point source permitting program, and all States have been approved by EPA to manage their Clean Air Act programs. However, if this provision were to become law, it is possible a State that did not qualify for such delegation (or had such delegation revoked) under the Clean Water Act or the Clean Air Act could then be given this responsibility by the Secretary of Transportation for transportation projects, in direct conflict with other Federal laws.

Limitation on Law Suits: We are also concerned that the bill bars any claim arising under Federal law for any project unless it is filed within 90 days after the final approval of the project is published in the Federal Register. Current law allows 180 days for claims to be filed and that deadline was already shortened from six years in the last reauthorization. This limit on the public's right to challenge a project decision combined with all the other amendments in the bill intended to limit the NEPA process will have significant impacts on the public participation in the development and delivery of transportation projects.

New Activities Classified as Categorical Exclusions: We are concerned that H.R. 7 categorizes any project within a right-of-way, any extension of a rail line in a right of way, or the replacement of any railroad-related facilities as a class of action categorically excluded from review under NEPA, regardless of the scope of the project. While we support the concept of expedited procedures within the existing footprint of a facility, the arbitrary application of the categorical exclusion authority under NEPA ensures that many projects that could have significant impact on the environment and

local communities will not go through any significant review. For instance, a community may have a two-lane road today, but own enough right-of-way to support an eight-lane superhighway. Under H.R. 7, the State and local transportation agencies could expand that road to eight lanes with no consideration of alternatives, no analysis of impacts, and no public input in the decision-making process.

Yet, at the same time, section 3017 of the bill, as reported, also stipulates that the Secretary of Transportation shall treat *an activity carried out under Title 23 as a class of action categorically excluded under NEPA.* Thus, *any* highway, transit, bridge, tunnel, multimodal project or railway crossing that receives Federal-aid highway funding is subject to only the most cursory review and virtually no public input, regardless of the scope of the project.

270–Day Time Limit: Finally, with respect to projects carried out under Title 23, section 3018 of H.R. 7, as reported, provides that, notwithstanding any other provision of law, any environmental review process for a highway project under NEPA or any other applicable environmental law shall be completed within 270 days after it is initiated, and if it is not completed, it shall be deemed to have no significant impact on the environment under NEPA and be considered a final agency action, warranting no further review. Furthermore, the bill limits the ability to appeal this action, and does not make clear what occurs in cases where reviews or permit processes under other environmental laws are not complete.

As stated earlier, more than 90 percent of FHWA and FTA projects are already categorically excluded under NEPA from needing a broad review that warrants the development of an EIS. The projects that do warrant the development of an EIS are those projects that will have the most significant environmental and community impacts and need greater deliberation and public input. These projects will likely be larger and more complex. Establishing an arbitrary and unreasonable deadline on the review process does not make sense.

We are also concerned that the project sponsor could simply delay the NEPA review process and, with the passage of 270 days, would be deemed in compliance with the law. Any delays in the ability to implement review and permit requirements could simply result in compliance with those laws after 270 days regardless of whether the requirements were actually met. Or, if the States were to assume NEPA authority or authority for other environmental laws as discussed above, any delays in the ability to implement review and permit requirements could simply result in compliance with those laws after 270 days regardless of whether the requirements were actually met.

In short, while we strongly support timely project delivery, we do not think the drastic changes made in this bill in the name of streamlining are necessary to achieve that goal, and we remain very concerned about the impacts these changes will have on the public participation process and the assessment of impacts to the environment.

Presidential Permit: We acknowledge that our Republican colleagues agreed to an amendment during Committee consideration offered by Mr. DeFazio to strike section 3003, "Expedited Permits",

from the bill. This section authorized the President to issue an "expedited permit" for any transportation infrastructure project (including highway, bridge, rail, transit, or interstate pipeline projects) if the President determined that the project will enhance the economic competitiveness of the United States. Not only did the provision give the President unfettered authority to approve a project, it also deemed any project approved using this authority to be in compliance *with all applicable Federal laws and regulations.* Furthermore, neither the submission of a project for consideration or the approval of any permit would have been subject to judicial review. Section 3003 would have allowed the President to approve any project, anytime, anywhere, anyhow without consideration of alternatives under NEPA. Further, other Federal laws, such as those governing civil rights, worker safety and labor standards, and water and air pollution could have also been waived. We are pleased that this provision was deleted and would strongly oppose any attempt to revisit this issue during Floor action.

4. FEDERAL-AID HIGHWAYS

Lack of Accountability: Although we support our Republican colleagues' efforts to restructure and consolidate Federal-aid highway programs, we are, however, concerned that the program as proposed will become nothing more than a block grant to the States, with little or no accountability for achieving specific outcomes with the Federal investment. As the Government Accountability Office has stated, the lack of clear Federal goals and the flexibility given to States under current surface transportation programs undermines the effectiveness of these programs in addressing key surface transportation challenges.[1] H.R. 7 expands this flexibility with few if any linkages between performance requirements and accountability for achieving outcomes. Despite our Republican colleagues' claims that this bill will allow States to invest in their most critical infrastructure needs, it is not clear how this will be achieved or overseen; nor will there be any significant consequences for States that fail to achieve this outcome. If we are to ensure that taxpayers receive the most for their investment in surface transportation programs, the bill must require transparency in funding decisions by States and include provisions linking performance management and accountability in the use of Federal gas tax revenue.

Disadvantaged Business Enterprise: We are pleased that the Disadvantaged Business Enterprise (DBE) program is continued in H.R. 7. This program is critical to ensuring equal opportunity in surface transportation contracting. We are concerned, however, that our Republican colleagues rejected efforts during Committee consideration to strengthen this program by increasing oversight, prohibiting excessive or discriminatory bonding requirements, and statutorily requiring annual adjustments to the personal net worth cap. These proposals would have made improvements to the program to address the under-representation and continuing discrimination in surface transportation contracting.

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[1] *Surface Transportation: Restructured Federal Approach Needed for More Focused, Performance-Based, and Sustainable Programs.* GAO–08–400; Washington, DC; March 2008.

Highway Bridge Funding: We are also concerned about the treatment of highway bridges in H.R. 7. With one in every four bridges in the nation classified as deficient, we believe that investments in addressing highway bridge deficiencies should be a priority in the use of Federal-aid highway funding. Although States would be required to invest an amount equal to 10 percent of their National Highway System (NHS) and Surface Transportation Program (STP) funds on highway bridge projects on the NHS, the amount of funds provided for bridges is significantly less than the $4.85 billion currently provided under the Highway Bridge Program. We support efforts to double the NHS bridge set-aside from 10 to 20 percent.

We are also concerned that the formula established for the new NHS program does not include a factor relating to bridge conditions. This approach moves away from the needs-based formula in the distribution of the existing Highway Bridge program and shifts core highway formula funding away from States with significant bridge investment needs.

Transportation Enhancements: H.R. 7 also undermines transportation options and pedestrian safety through the elimination of the current transportation enhancement (TE) set-aside. This set-aside allows States to choose to implement low-cost transportation options that improve quality of life and enhance roadway safety. Pedestrians and cyclists currently account for approximately 13 percent of all fatalities involving motor vehicles. The TE set-aside allows States to develop appropriate facilities for these modes, which is essential in reducing the highway fatality rate.

Public Lands Highways Program: We are also concerned about the changes to the Federal lands Programs under the bill. While we are not necessarily opposed to efforts to consolidate and streamline the current program, we are concerned that the bill would give Federal Land Management agencies significant flexibility in the administration of these programs at the expense of the State and local governments. Specifically, we oppose the elimination of funding that goes directly to States and local governments through the elimination of the Public Lands Highways Program. Currently, 41 States receive funding under this program, with most of the funds going to State and county road projects. The elimination of the Public Lands Highways Program will require State and local governments to assume the costs of maintaining and improving roads that provide access to and through Federal lands. The bill imposes a significant cost on States and local governments who own the roads but who do not derive any significant revenues from the Federal land.

Mandates on States and Limits on Local Decision-making: Although the bill purports to provide States broad flexibility to manage their Federal-aid highway programs, we are concerned that the proposal includes a number of new provisions and mandates that would undermine local decision-making and control. Specifically, H.R. 7 includes a mandate that State departments of transportation use private-sector firms for engineering and design services on Federal-aid highway projects. The bill also requires States to conduct an analysis of all projects costing more than $500 million to determine if the use of public-private partnerships should be considered. Such provisions limit the ability of States to manage

their programs, and steer them toward choices they may not have made otherwise, and which may be more costly.

Similarly, H.R. 7 includes a provision allowing the Governor of a State to modify a local Transportation Improvement Plan (TIP) without the agreement of the affected Metropolitan Planning Organization (MPO). This provision undermines current law and local control and shifts the balance of power within metropolitan regions.

State Infrastructure Banks: We do not support the inclusion of a new program to reward States that establish a State Infrastructure Bank (SIB). We recognize the role SIBs can play in a State's surface transportation program, and do not object to increasing the amount of formula funding that a State can choose to use toward capitalizing a SIB. However, only 32 States (including Puerto Rico) have established a SIB. There are many reasons why States may choose not to capitalize a SIB: lack of statutory authority, concerns over impact on its debt limit and bond rating, or inability to generate revenue to repay a SIB loan. The creation of this new program incentivizes States to establish an entity that they may not believe is in their best interest.

Projects of Regional and National Significance (PNRS) Program: We are also concerned that H.R. 7 does not include a program to provide funding for high-cost transportation projects of national or regional importance to the surface transportation system. Under the current state-based formula distribution of Federal-aid highway funds, large, freight-based, multi-jurisdictional projects do not fare well. We believe that the establishment of a competitive, merit-based grant program will provide funding for the development of projects with national or regional—as opposed to local—benefits that will improve the operation of the nation's intermodal freight transportation network and strengthen the nation's economic competitiveness.

Undermines the Obligation to Mitigate Project Impacts on the Environment: We recognize that surface transportation projects have an impact on the natural environment, including wetlands and natural habitat. Federal law, including the Clean Water Act, attempts to reduce the impact by establishing a process to, first, avoid and minimize potential impacts to the environment, whenever possible, and to ensure that those impacts are adequately mitigated should they occur. As recent flooding events demonstrate, unrestrained development and unmitigated impacts to wetlands can exacerbate the size and scope of flooding events, and put downstream communities at greater risk.

In recent years, both the Government Accountability Office (GAO) and the National Academy of Sciences have reviewed the adequacy of Federal mitigation activities, including the mitigation of surface transportation projects. Both organizations have questioned whether the current statutory obligations are adequate to address the impacts of projects to the environment, and have highlighted instances where project sponsors have avoided meeting their legal mitigation responsibilities altogether.

In that light, we are concerned with the provisions in H.R. 7 that propose significant changes to the Title 23 mitigation requirements. H.R. 7 dilutes the statutory requirement for mitigation by allowing project sponsors to delay any efforts to redress losses until

after a project is completed. These changes would allow project sponsors to defer any efforts to mitigate project impacts, even financial contributions to commercial mitigation banks or third-party mitigation efforts, until the very end of the process, potentially when the funding for the project has been fully obligated, the impacts to the environment have already occurred, and the chances of additional funding solely for mitigation activities would be exhausted.

In our view, this intentional and unnecessary delay for mitigation requirements further marginalizes the importance of restoring losses to wetlands and habitat, as required by Federal law, and increases the likelihood of potential flooding and other consequences from unmitigated impacts of construction projects. In addition, this bill marks the first time that project sponsors would be statutorily authorized to mitigate any and all potential impacts to the environment after the project is completed—a standard that is inconsistent with the current provisions of Title 23 ("concurrent with or in advance of project construction") or the statutory obligations followed by other agencies, such as the Corps of Engineers, in section 906 of the Water Resources Development Act of 1986 ("mitigation . . . shall be undertaken . . . before any construction of the project . . . commences, or . . . concurrently . . . with the physical construction of such project.").

We are equally concerned about the elimination of the current law requirement that any mitigation activities funded under Title 23 be carried out "in accordance with applicable Federal law and regulations." We can only surmise that this change was intended to further weaken the statutory requirements that sponsors adequately mitigate the impacts of projects on the environment.

We are unaware of any evidence to suggest that the current mitigation timing has been a burden, especially if the selected mitigation option is undertaken through financial contributions to a commercial mitigation bank or other third-party activity. No hearings were undertaken, or testimony received, that suggests the mitigation changes proposed in H.R. 7 are warranted, or what their potential impact might be; however, there is strong evidence that further weakening of the statutory mitigation obligations will further reduce the chances of mitigation success.

5. PUBLIC TRANSPORTATION

As discussed under the funding section, we are deeply concerned with the changes to the sources of funding for public transportation programs. Removing dedicated, user-financed transit funding from the Highway Trust Fund is a short-sighted change that breaks long-standing transportation policy. In addition to our strong objection to this change, there are a number of other programmatic and policy concerns contained in Title II of the bill, as reported.

Bus and Bus Facilities: We are concerned with changes to the distribution of funds under the Bus and Bus Facilities grant program. H.R. 7 distributes funds under this program through a newly created formula rather than on a discretionary basis as was the case before this bill. While we do not object to the funds being distributed by formula, a change in program eligibility now prohibits any transit system that operates heavy rail, commuter rail, or light

rail to receive funding under the program. This bill significantly limits the availability of Federal bus grant funding for the nation's transit systems in large population centers. In these difficult economic times, transit systems do not have extra funds available to undertake capital and maintenance projects without Federal funds; they struggle to find sufficient non-Federal sources of funds to keep their systems operating. We do not understand the rationale for this change and oppose its inclusion in the bill.

Privatization: We strongly oppose provisions in Title II of H.R. 7 that mandate and subsidize the privatization of public transit service. Specifically, section 2012 authorizes a higher Federal share (90 percent) for the capital cost of buses and bus-related facilities and equipment purchased with any FTA grant funds, if a public transit agency contracts out 20 percent or more of its fixed-route bus service. At a time when Federal resources available to invest in transit are dwindling, we do not support directing more of these resources to for-profit private bus companies nor do we think it is appropriate for the Federal Government to tip the scales in favor of private companies offering transit service. Further, a subsidy is not needed to spur privatization. During the past decade, the percentage of contracted, fixed-route bus service in the U.S. has doubled on its own, without Federal taxpayer assistance.

H.R. 7 also makes private entities eligible to receive Federal grants funds directly, as subrecipients, under the Bus and Bus Facilities program and the Coordinated Access and Mobility program. Private operators already have ample opportunity to compete for contracts with a public transit provider. Private operators are already used extensively, for example, in paratransit service. Competing for service that the public sector cannot provide sufficiently or appropriately is already something private companies do successfully.

Section 2004 of H.R. 7 further strikes the requirement that local policies and decision-making determine the degree to which private enterprise participation under various transit programs is utilized. By doing so, this change essentially mandates private-sector participation in the planning process. Although the bill strikes the local control language, it leaves in place sanctions if the State or MPO do not meet certain criteria to include the private sector. This represents unwarranted Federal intrusion into local decisions. The Federal Government should set transit policy—not micro-manage the choices made at the local level to meet the transit needs of communities.

Operating Assistance: H.R. 7 fails to provide flexibility to transit systems to use Federal funds to maintain service and transit worker jobs at times of economic crisis. Currently, transit systems located in urbanized areas above 200,000 in population may only use their Federal funds for capital projects and maintenance. With local sales tax revenues down and state and local budgets stretched thin, transit systems are having trouble securing the additional funds for operating and often have no choice but to raise fares or cut service. We strongly support the inclusion of language to allow transit systems to use a portion of their Urbanized Area Formula grant funds to keep buses and trains running in a time of economic hardship: when the unemployment rate in their area is at least

seven percent or when the price of gas rises by more than 10 percent. Further, although some flexibility to use Federal funds for operating was included during Committee consideration for small transit systems that operate less than 100 buses during peak hours, we believe providing maximum flexibility for these small systems is warranted.

6. SAFETY

NHTSA Grant Funding: We are greatly concerned with the funding cuts contained in Title V of the bill for highway safety grants to States. As reported, the bill cuts over $380 million over the life of the bill in grants to States. The bill provides only $493 million per year for the single consolidated section 402 grant program. Comparatively, in FY 2011, Congress provided $572 million for NHTSA's separate grant programs. The bill cuts NHTSA safety grant funding by 16 percent per year. In a time of tight budgets, States can ill afford to make up this difference on their own; as a result, States will be able to carry out fewer activities to enhance highway safety.

Motor Carrier Safety Grants: H.R. 7 delegates broad authority to the States to carry out the Motor Carrier Safety Assistance Program (MCSAP), yet significantly reduces the Federal oversight over State use of Federal funds. We are concerned that the bill changes the program guidance for MCSAP to allow a State to go up to three years without an approved safety plan before fully withholding MC SAP grant funds. States will be able to continue to spend Federal funds on activities even if the Secretary of Transportation determines that the State's commercial vehicle safety expenditures are not achieving the State's own safety goals.

Hours of Service: Section 6502 of H.R. 7 requires the Secretary of Transportation to conduct a field study by April 2013 related to changes to the restart provisions in the hours of service rule published by the Federal Motor Carrier Safety Administration (FMCSA) on December 27, 2011. This section further directs the Secretary to stay the rule and conduct a new rulemaking if the results of the study do not support the changes published by FMCSA. Congress mandated, in section 408 of the ICC Termination Act of 1995 (Pub. L. 104–88), that the Department of Transportation (DOT) conduct a rulemaking "dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle safety" because the hours of service rules governing commercial truck and bus drivers had not been changed since 1962. FMCSA issued a final rule implementing this mandate on April 28, 2003. Since then, the courts have twice vacated the rules issued by FMCSA, including specifically vacating the 34-hour restart provision in 2007. Although we do not object to the requirement for FMCSA to conduct further study, we are greatly concerned with a legislative mandate to stay the rule based on the results of a single study, when FMCSA has considered numerous studies and data already in developing this rule. Attempts to legislatively delay implementation of a final rule will continue the uncertainty over what rules govern on duty time for commercial truck drivers, and will not improve safety.

Section 6602 eliminates Fair Labor Standards Act (FLSA) minimum wage and overtime pay protections for drivers operating under contracts with rail carriers to transport rail carrier employees. An exemption from FLSA requirements has existed for motor carriers since 1935. The motor carrier exemption states that the overtime provisions of the FLSA do not apply to any employee for whom the Secretary of Transportation has the authority to establish qualifications of drivers and maximum hours of service for all drivers regardless of the size of the vehicle. Prior to the passage of SAFETEA–LU, this exemption applied to all employees of motor carriers or private motor carriers, including drivers of vehicles weighing 10,000 pounds or less. The exemption was based on DOT's authority under section 31502 of Title 49 to prescribe requirements for maximum hours of service. However, DOT has never subjected commercial drivers of vehicles weighing less than 10,000 pounds to any Federal safety standards, including hours of service. A definitional change in SAFETEA–LU removed DOT's authority to establish qualifications and maximum hours of service for drivers of vehicles weighing less than 10,000 lbs. As a result, the motor carrier exemption for drivers of lighter-weight vehicles was eliminated and a new class of drivers became eligible for overtime pay under FLSA. Section 6602 exempts drivers of lighter-weight vehicles, presumably passenger vans, under contract with rail carriers to transport rail workers to and from worksites from FLSA requirements. We are very concerned that these drivers are also not covered by DOT hours-of-service rules, meaning that as a result of this change, no Federal wage and hour laws would apply to these workers.

Agriculture exemptions: H.R. 7 also contains several exemptions for farmers and agriculture haulers from driver safety and hours of service rules. Although we do not object to targeted and reasonable exemptions to facilitate the movement of goods to market for America's farmers and agricultural community, we believe that any exemption must carefully consider the safety impacts.

A study conducted by FMCSA in May 2010 found that agricultural carriers overall had higher out-of-service and violation rates than non-agricultural carriers related to the safe operation of commercial motor vehicles, driver qualifications, and vehicle maintenance. Agricultural carriers exempt from hours of service had even higher out-of-service and violation rates than non-exempt agricultural carriers.

Several exemptions from Federal motor carrier safety regulations already exist for farmers, including an hours-of-service exemption during harvest and planting time within 100 miles, and an exemption from the requirements to hold a commercial drivers' license if a farmer travels within 150 miles in a State.

Section 6505 of the bill expands the existing hours-of-service exemption to a 150–mile radius of a farm or the source of the commodities, but also includes 150 miles from a wholesale or retail distribution point to a farm or where the supplies will be used and 150 miles from the wholesale distribution point to a retail distribution point. These second-stage movements have always been interpreted by FMCSA as outside the scope of the existing exemption, and do not have to involve a farmer directly. Section 6601 of the

bill exempts farm or ranch owners or operators, and their employees or family members, from all requirements to hold a CDL, be medically qualified, pass a drug and alcohol test, and hours-of-service rules. To qualify for the exemption, the vehicle must be equipped with a special farm license plate or other designation by the State, and must weigh less than 26,000 pounds. For vehicles weighing more than 26,000 pounds, the exemptions still apply if the vehicle is traveling less than 150 miles from the farm or ranch. These changes represent a significant expansion of the current allowances, without any requirements that FMCSA evaluate the impacts of such exemptions to ensure that they result in an equivalent level of safety.

Positive Train Control: The bill extends the deadline for implementation of Positive Train Control (PTC) on passenger rail lines from December 31, 2015, to December 31, 2020, and could extend the deadline for PTC on rail lines that transport toxic-by-inhalation hazardous materials to anytime after 2020. PTC systems are designed to automatically prevent train-to-train collisions, overspeed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position. Congress mandated installation of PTC on a bipartisan basis in the Rail Safety Improvement Act of 2008 (Pub. L. 110–432), in the wake of one of the most tragic rail accidents in U.S. history. On September 12, 2008, a head on collision between a freight train and commuter train in Chatsworth, California, took the lives of 25 passengers and seriously injured 130 others. PTC has been on the National Transportation Safety Board's (NTSB) list of most wanted safety improvements for more than 20 years. In the past 10 years alone, the NTSB has investigated 52 rail accidents, including four transit accidents, where the installation of PTC would likely have prevented the accident. These accidents include five serious accidents in 2005: Graniteville, South Carolina; Anding, Mississippi; Shepherd, Texas; Chicago, Illinois; and Texarkana, Arkansas. These figures, however, do not include the numerous accidents that the Federal Railroad Administration has investigated. In August 1999, the Railroad Safety Advisory Committee published a report entitled *Implementation of Positive Train Control Systems,* which stated that out of a select group of 6,400 accidents that occurred from 1988 through 1997, 2,659 of those accidents could have been prevented had some form of PTC been implemented.

We recognize the complexities of installing PTC and therefore the need to allow additional time for the freight and commuter railroads to implement the 2008 mandate; however, a deadline of 2020 or beyond is far too long. We believe that a better approach would be to provide the Secretary with the authority to extend the current deadline for individual railroads for no more than three years, or December 31, 2018. In a letter dated February 1, 2012, to a Member of Congress, NTSB Chairman Deborah A.P. Hersman expressed its disappointment in the delay of PTC contained in H.R. 7.

In addition to extending the PTC mandate, H.R. 7 allows freight railroads to implement an alternative strategy in lieu of installing PTC. The alternative strategy could provide far less protection than required under the PTC mandate; it would only have to "reduce the

risk" of a release to the same extent PTC would. According to DOT, it would not have to be designed to achieve all that PTC is required to prevent, including train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong positions. We believe this subsection should be clarified to ensure that whatever alternative strategy is utilized by the railroads and approved by the Secretary provides a level of safety at least equal to the level of safety that would have been provided if PTC had been implemented.

Rail and Hazardous Materials Regulations: While H.R. 7 purports to "improve regulations and regulatory review", it may, in fact, make it much more cumbersome and time-consuming for DOT to issue regulations or guidance to protect the public from possible safety trends or to respond to imminent safety threats. The bill also introduces uncertainty by requiring any regulation to be based on "evidence", but fails to define what it means by "evidence". It also mandates that any substantive agency guidance to recipients of Federal assistance be subject to the requirements of the Administrative Procedure Act, which include public notice and comment procedures, which could prevent DOT from quickly being able to issue significant guidance in response to imminent safety hazards.

Hazardous Materials Safety: We oppose provisions of the bill which remove safety and health protections and endanger workers and the traveling public. Over the last decade, there have been 170,446 incidents involving transportation of hazardous materials, resulting in 134 fatalities, 2,783 injuries, and more than $631 million in property damage. Although transportation incidents involving hazardous materials are declining, the hazardous materials industry remains one of the most dangerous industries in which to work.

Elimination of OSHA Authority: Provisions in the bill needlessly eliminate the authority of the Occupational Safety and Health Administration (OSHA) to protect workers who load, unload, and handle hazardous materials; design, manufacture, test, and mark hazardous materials packaging, and work at fixed facilities where hazmat is stored, including rail cars that store hazmat inside these facilities.

Since 1970, OSHA has promulgated a number of regulations that address the handling of hazardous materials at fixed facilities. These include regulations governing process safety management of highly hazardous chemicals and requirements for handling and storing specific hazardous materials, such as compressed gases, flammable and combustible liquids, explosives and blasting agents, liquefied petroleum gases, and anhydrous ammonia. OSHA regulations also address hazard communication requirements at fixed facilities, including container labeling and other forms of warnings, material safety data sheets, and employee training. In addition, facilities that handle and store hazardous materials must comply with OSHA regulations that address more general types of workplace hazards, such as walking and working surfaces, means of egress, noise, air-quality, environmental control, personal protective equipment, and fire protection.

In 1990, Congress mandated in the Hazardous Materials Transportation Uniform Safety Act (Public Law 101–615) that Department of Transportation (DOT) regulations would not preempt OSHA regulations, allowing both agencies to regulate in the hazmat arena: DOT to regulate transportation and OSHA to regulate worker safety. It would undermine worker safety, and create needless confusion, for DOT to now displace such OSHA protections and the agency's enforcement authority over these important regulations.

Hazmat Training: Similarly, H.R. 7 relieves certain employers who transport hazardous materials from one of the most important workers safety protections: training. Under current law, the definition of a "hazmat employer" is a person who employs or uses at least one hazmat employee on a full-time, part-time, or temporary basis; or is self-employed. H.R. 7 eliminates the phrase "or uses" from the definition thereby relieving employers who use contractors to load, unload, or handle hazardous materials from having to train those workers. Under the bill, only employers who directly employ personnel on a full- or part-time basis would have to comply with such training requirements.

H.R. 7 also eliminates the hazmat train-the-trainer program, which provides $4 million in competitive grants per year to nonprofit hazmat employee organizations to train instructors to train hazmat employees. The National Labor College provides one such program on behalf of the rail unions for training rail workers, called the Rail Workers Hazardous Materials Training Program. The training is more comprehensive than required of railroads and does not replace, but rather builds upon, the training provided by hazmat employers. The program is funded, in part, through the National Institute of Environmental Health Sciences, the North American Railway Foundation, and DOT.

H.R. 7 further fails to address stronger training standards for emergency responders. Emergency responders who may be called to the scene of an accident need to receive more advanced training when responding to incidents related to the release of hazardous substances. Current law does not require States, local governments, and Indian tribes that receive Hazardous Emergency Preparedness (HMEP) grants from DOT to train fire fighters or other first responders at a specific level. As a result, most fire fighters only receive awareness training, which is not sufficient. We believe H.R. 7 should require entities receiving HMEP grants to train fire fighters at the Operations Level, at a minimum.

Hazmat Exemptions: With respect to exemptions from hazardous materials regulations, known as special permits, we are concerned with several provisions in the bill. In 2010, the Committee on Transportation and Infrastructure and the DOT Inspector General conducted investigations of DOT's special permit program. The investigations found that DOT did not adequately review applicants' safety histories when issuing hazmat exemptions; ensure applicants will provide an acceptable level of safety; coordinate with the affected operating administrations; and conduct regular compliance reviews of individuals and companies that have been granted exemptions. Several provisions in H.R. 7 are contrary to these findings.

Limitation on Denial of Hazmat Applicants: The bill prohibits the Secretary from denying applications for hazmat exemptions for having an out-of-service rate that is greater than the national average. In other words, an applicant cannot be denied an exemption for having a poor safety record.

Provides Permanent Hazmat Exemptions: The bill also requires DOT to permanently adopt, in its regulations, every exemption that DOT has issued over the last six years; as long as it is a matter of general application, has future effect, and is consistent with hazardous materials safety. According to DOT, this means that more than 5,000 exemptions could now become permanent. A perfect example of one such exemption is a permit that authorizes the transportation of certain explosives that are forbidden or that exceed quantities authorized for transportation by cargo aircraft. According to DOT, as a result of this bill, that exemption would now be fully incorporated in regulation.

In addition, the bill prohibits the Secretary from charging fees to applicants for exemptions from hazmat regulations. The President's Fiscal Year 2012 budget proposed establishing fees to assist DOT staff in processing the more than 13,000 annual applications.

H.R. 7 contains other provisions that could have a significant deleterious effect on safety, which we believe should be stricken from the bill. These sections include provisions that (1) significantly limit DOT's authority to conduct hazmat inspections and investigations; (2) relieve carriers of liability for any violations stemming from pre-transportation functions, such as loading operations; (3) preempt certain State procedures, standards, and penalties; (4) eliminate DOT's authority to issue a regulation prohibiting the transportation of Class 3 flammable liquids, such as gasoline, in the external product piping of cargo tank motor vehicles; and (5) prevent the Secretary from issuing guidance and regulations to protect the public from trending or possible safety hazards.

Incorporation of Industry-Developed Standards in Regulations: H.R. 7 also allows DOT to continue to incorporate industry-developed standards by reference in regulations and then allow the industry to charge the public for access to those standards. We believe that H.R. 7 should adopt the approach taken in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Public Law 112–90), which prohibits the Secretary from issuing guidance or a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.

DOT Inspectors: DOT currently has only 35 inspectors responsible for overseeing more than 300,000 hazmat entities. The bill's cut to DOT's hazmat program from more than $42 million, provided in Fiscal Year 2012, to $39 million annually thereafter, will make it even harder for DOT to enforce hazmat regulations and ensure public safety.

7. Passenger Rail

We are deeply concerned that H.R. 7 includes several provisions that will harm or eliminate freight and passenger rail programs, including Amtrak, in a very short-sighted approach that ignores our nation's growing infrastructure needs and fails to recognize

that adequate investment in freight and passenger rail is crucial for national economic growth, global competitiveness, the environment, and quality of life.

H.R. 7 eliminates the program that provides capital grants for short line and regional railroads (49 U.S.C. 22301). The bill also fails to reauthorize the rail line relocation and improvement capital grant program, which was authorized in SAFETEA–LU through 2009 (49 U.S.C. 20154). In addition, the bill eliminates the congestion grant program, which provides grants to States and Amtrak for financing the capital costs of facilities, infrastructure, and equipment for high priority rail corridor projects necessary to reduce congestion or facilitate ridership growth in intercity rail passenger transportation; this program is currently authorized for $100 million in 2012 and $100 million for 2013 (49 U.S.C. 24105).

Amtrak Capital Funding: Consistent with our Republican colleagues' long-standing opposition to Amtrak, the bill includes several provisions to reduce Federal assistance for Amtrak. Last year, Amtrak set a new all-time ridership record of nearly 30.2 million passengers for FY 2011, the eighth ridership record in the last nine years. We are deeply committed to seeing Amtrak continue to succeed and are extremely troubled by the efforts of our Republican counterparts to continue to try to dismantle and bankrupt our national passenger railroad.

The bill reduces Amtrak's operating grants by nearly $308 million over the next two years from current levels authorized in the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432). Although the bill cuts Amtrak's operating grants, it fails to provide a corresponding increase in Amtrak's capital grants to help Amtrak upgrade tracks, bridges, and other infrastructure; pursue efforts to expand *Acela Express* capacity; advance initial planning work for the Gateway Program to provide additional capacity into Manhattan for intercity, commuter and high-speed rail services; improve station accessibility under requirements of the Americans with Disabilities Act; and continue the development of a next-generation reservation system.

Prohibition on Amtrak Contracting with Outside Counsel: The bill also prevents Amtrak from using its Federal funds to hire or contract with outside counsel or file any lawsuit, or defend itself, against a passenger rail operator, including a Class I railroad. The impact of this prohibition would severely impair Amtrak's ability to defend itself and the Federal taxpayer's investment. This provision is an open invitation for operators to sue Amtrak and an invitation for its competitors to engage in illegal activity because Amtrak could do nothing to defend itself. It could also have an immediate impact on the safety of Amtrak's operations. If, for example, a train operated by another entity collided with an Amtrak train—that entity could avoid any liability for its wrongdoing and negligence by simply suing Amtrak. Given that Amtrak would, at a minimum, be precluded from retaining counsel to defend itself or bring a counterclaim against the other entity for its malfeasance, Amtrak would bear full responsibility for any deaths or injuries caused by the other entity—even where it was clear that the other operator was solely responsible for the entire accident. If the host railroad over which Amtrak operates failed to take responsibility for its contrac-

tual commitments to maintain a safe and reliable right of way, Amtrak would be precluded from enforcing its contractual or statutory rights.

Amtrak is further prohibited from using Federal funds to pursue any litigation against a passenger rail operator arising from a competitive bid process in which Amtrak and the passenger rail operator participated. The Committee has held no hearings or briefings on this issue. Some Republican Members have raised concerns with a pending case that Amtrak has filed against Veolia, claiming Amtrak files frivolous lawsuits against its competitors after losing a bid. Nevertheless, to date, the U.S. District Court judge handling the case has denied all three attempts by Veolia to dismiss the lawsuit, including a motion to dismiss, motion for summary judgment, and motion for interlocutory appeal; the case is now set for trial.

Amtrak's Food and Beverage Service: The bill also requires the FRA to bid-out Amtrak's food and beverage service to the lowest cost bidder. This will result in the elimination of 2,000 Amtrak jobs, in a so-called "Jobs Act". Further, the bill allows the FRA to take Federal funding from Amtrak and provide it to the winning bidder to cover any losses. The winning bidder essentially needs only to claim they will lose less money than Amtrak; they are not required to show they will turn a profit.

Bidding out Amtrak Routes: Further, the bill makes permanent a pilot program established in PRIIA that allows any passenger rail provider to bid for any of Amtrak's routes. The bill allows that provider to operate the routes in renewable periods of five years. The bidder would be provided the operating grants that Amtrak would have gotten to operate over the route(s). We fail to see how transferring Amtrak's operating grants to a private company creates any savings or benefits for the Federal taxpayer.

Prohibition Against the Use of Funds for California High-Speed Rail: Finally, the bill prohibits the use of any highway, transit, or passenger rail funds to be used for the development of high-speed rail in the State of California. The prohibition includes innovative financing tools such as Transportation Infrastructure Finance and Innovation Act (TIFIA) or Railroad Rehabilitation & Improvement Financing (RRIF) loans. We oppose this provision. We believe that California needs to find a solution to its congestion and we should not prevent the State from being able to decide how best to address its transportation needs.

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