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114TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
114–318

SURFACE TRANSPORTATION REAUTHORIZATION AND REFORM ACT OF 2015

R E P O R T

OF THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

TO ACCOMPANY

H.R. 3763

OCTOBER 29, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 3763]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3763) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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 "Surface Transportation Reauthorization and Reform Act of 2015".

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

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

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Definitions.
Sec. 1104. Apportionment.
Sec. 1105. National highway performance program.
Sec. 1106. Surface transportation block grant program.
Sec. 1107. Railway-highway grade crossings.
Sec. 1108. Highway safety improvement program.
Sec. 1109. Congestion mitigation and air quality improvement program.
Sec. 1110. National highway freight policy.
Sec. 1111. Nationally significant freight and highway projects.
Sec. 1112. Territorial and Puerto Rico highway program.
Sec. 1113. Federal lands and tribal transportation program.
Sec. 1114. Tribal transportation program.
Sec. 1115. Federal lands transportation program.
Sec. 1116. Tribal transportation self-governance program.

Sec. 1117. Emergency relief.
Sec. 1118. Highway use tax evasion projects.
Sec. 1119. Bundling of bridge projects.
Sec. 1120. Tribal High Priority Projects program.
Sec. 1121. Construction of ferry boats and ferry terminal facilities.

Subtitle B—Planning and Performance Management

Sec. 1201. Metropolitan transportation planning.
Sec. 1202. Statewide and nonmetropolitan transportation planning.

Subtitle C—Acceleration of Project Delivery

Sec. 1301. Satisfaction of requirements for certain historic sites.
Sec. 1302. Treatment of improvements to rail and transit under preservation requirements.
Sec. 1303. Clarification of transportation environmental authorities.
Sec. 1304. Treatment of certain bridges under preservation requirements.
Sec. 1305. Efficient environmental reviews for project decisionmaking.
Sec. 1306. Improving transparency in environmental reviews.
Sec. 1307. Integration of planning and environmental review.
Sec. 1308. Development of programmatic mitigation plans.
Sec. 1309. Delegation of authorities.
Sec. 1310. Categorical exclusion for projects of limited Federal assistance.
Sec. 1311. Application of categorical exclusions for multimodal projects.
Sec. 1312. Surface transportation project delivery program.
Sec. 1313. Program for eliminating duplication of environmental reviews.
Sec. 1314. Assessment of progress on accelerating project delivery.
Sec. 1315. Improving State and Federal agency engagement in environmental reviews.
Sec. 1316. Accelerated decisionmaking in environmental reviews.
Sec. 1317. Aligning Federal environmental reviews.

Subtitle D—Miscellaneous

Sec. 1401. Tolling; HOV facilities; Interstate reconstruction and rehabilitation.
Sec. 1402. Prohibition on the use of funds for automated traffic enforcement.
Sec. 1403. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
Sec. 1404. Highway Trust Fund transparency and accountability.
Sec. 1405. High priority corridors on National Highway System.
Sec. 1406. Flexibility for projects.
Sec. 1407. Productive and timely expenditure of funds.
Sec. 1408. Consolidation of programs.
Sec. 1409. Federal share payable.
Sec. 1410. Elimination or modification of certain reporting requirements.
Sec. 1411. Technical corrections.
Sec. 1412. Safety for users.
Sec. 1413. Design standards.
Sec. 1414. Reserve fund.
Sec. 1415. Adjustments.
Sec. 1416. National electric vehicle charging, hydrogen, and natural gas fueling corridors.
Sec. 1417. Ferries.
Sec. 1418. Study on performance of bridges.
Sec. 1419. Relinquishment of park-and-ride lot facilities.
Sec. 1420. Pilot program.
Sec. 1421. Innovative project delivery examples.
Sec. 1422. Administrative provisions to encourage pollinator habitat and forage on transportation rights-of-way.
Sec. 1423. Milk products.
Sec. 1424. Interstate weight limits for emergency vehicles.
Sec. 1425. Vehicle weight limitations—Interstate System.
Sec. 1426. New national goal, performance measure, and performance target.
Sec. 1427. Service club, charitable association, or religious service signs.
Sec. 1428. Work zone and guard rail safety training.
Sec. 1429. Motorcyclist advisory council.
Sec. 1430. Highway work zones.

TITLE II—INNOVATIVE PROJECT FINANCE

Sec. 2001. Transportation Infrastructure Finance and Innovation Act of 1998 amendments.
Sec. 2002. State infrastructure bank program.
Sec. 2003. Availability payment concession model.

TITLE III—PUBLIC TRANSPORTATION

Sec. 3001. Short title.
Sec. 3002. Definitions.
Sec. 3003. Metropolitan and statewide transportation planning.
Sec. 3004. Urbanized area formula grants.
Sec. 3005. Fixed guideway capital investment grants.
Sec. 3006. Formula grants for enhanced mobility of seniors and individuals with disabilities.
Sec. 3007. Formula grants for rural areas.
Sec. 3008. Public transportation innovation.
Sec. 3009. Technical assistance and workforce development.
Sec. 3010. Bicycle facilities.
Sec. 3011. General provisions.
Sec. 3012. Public transportation safety program.
Sec. 3013. Apportionments.
Sec. 3014. State of good repair grants.
Sec. 3015. Authorizations.
Sec. 3016. Bus and bus facility grants.
Sec. 3017. Obligation ceiling.
Sec. 3018. Innovative procurement.
Sec. 3019. Review of public transportation safety standards.
Sec. 3020. Study on evidentiary protection for public transportation safety program information.
Sec. 3021. Mobility of seniors and individuals with disabilities.
Sec. 3022. Improved transit safety measures.
Sec. 3023. Paratransit system under FTA approved coordinated plan.

TITLE IV—HIGHWAY SAFETY

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Sec. 4002. Highway safety programs.
Sec. 4003. Highway safety research and development.
Sec. 4004. High-visibility enforcement program.
Sec. 4005. National priority safety programs.
Sec. 4006. Prohibition on funds to check helmet usage or create related checkpoints for a motorcycle driver or passenger.
Sec. 4007. Marijuana-impaired driving.
Sec. 4008. National priority safety program grant eligibility.
Sec. 4009. Data collection.
Sec. 4010. Technical corrections.

TITLE V—MOTOR CARRIER SAFETY

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Sec. 5101. Grants to States.
Sec. 5102. Performance and registration information systems management.
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Sec. 5104. Commercial driver's license program implementation.
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Sec. 5202. Regulations.
Sec. 5203. Guidance.
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PART II—COMPLIANCE, SAFETY, ACCOUNTABILITY REFORM

Sec. 5221. Correlation study.
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Subtitle C—Commercial Motor Vehicle Safety

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Sec. 5302. Windshield mounted safety technology.
Sec. 5303. Prioritizing statutory rulemakings.
Sec. 5304. Safety reporting system.
Sec. 5305. New entrant safety review program.
Sec. 5306. Ready mixed concrete trucks.

Subtitle D—Commercial Motor Vehicle Drivers

Sec. 5401. Opportunities for veterans.
Sec. 5402. Drug-free commercial drivers.
Sec. 5403. Certified medical examiners.
Sec. 5404. Graduated commercial driver's license pilot program.
Sec. 5405. Veterans expanded trucking opportunities.

Subtitle E—General Provisions

Sec. 5501. Minimum financial responsibility.
Sec. 5502. Delays in goods movement.
Sec. 5503. Report on motor carrier financial responsibility.
Sec. 5504. Emergency route working group.
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Sec. 5506. Technology improvements.
Sec. 5507. Notification regarding motor carrier registration.
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Sec. 5509. Covered farm vehicles.
Sec. 5510. Operators of hi-rail vehicles.
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Sec. 5514. Ready mix concrete delivery vehicles.

TITLE VI—INNOVATION

Sec. 6001. Short title.
Sec. 6002. Authorization of appropriations.
Sec. 6003. Advanced transportation and congestion management technologies deployment.
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Sec. 6018. Motorcycle safety.
Sec. 6019. Hazardous materials research and development.
Sec. 6020. Web-based training for emergency responders.
Sec. 6021. Transportation technology policy working group.
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Sec. 6024. GAO report.
Sec. 6025. Intelligent transportation system purposes.
Sec. 6026. Infrastructure integrity.

TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

Sec. 7001. Short title.
Sec. 7002. Authorization of appropriations.
Sec. 7003. National emergency and disaster response.
Sec. 7004. Enhanced reporting.
Sec. 7005. Wetlines.
Sec. 7006. Improving publication of special permits and approvals.
Sec. 7007. GAO study on acceptance of classification examinations.
Sec. 7008. Improving the effectiveness of planning and training grants.
Sec. 7009. Motor carrier safety permits.
Sec. 7010. Thermal blankets.
Sec. 7011. Comprehensive oil spill response plans.
Sec. 7012. Information on high-hazard flammable trains.
Sec. 7013. Study and testing of electronically controlled pneumatic brakes.
Sec. 7014. Ensuring safe implementation of positive train control systems.
Sec. 7015. Phase-out of all tank cars used to transport Class 3 flammable liquids.

TITLE VIII—MULTIMODAL FREIGHT TRANSPORTATION

Sec. 8001. Multimodal freight transportation.

TITLE IX—NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU

Sec. 9001. National Surface Transportation and Innovative Finance Bureau.
Sec. 9002. Council on Credit and Finance.

TITLE X—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY

Sec. 10001. Allocations.
Sec. 10002. Recreational boating safety.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

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

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

SEC. 3. EFFECTIVE DATE.

Except as otherwise provided, this Act, including the amendments made by this Act, takes effect on October 1, 2015.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

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

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

(A) $38,419,500,000 for fiscal year 2016;
(B) $39,113,500,000 for fiscal year 2017;
(C) $39,927,500,000 for fiscal year 2018;
(D) $40,764,000,000 for fiscal year 2019;
(E) $41,623,000,000 for fiscal year 2020; and
(F) $42,483,000,000 for fiscal year 2021.

(2) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM.—For credit assistance under the transportation infrastructure finance and innovation program under chapter 6 of title 23, United States Code, $200,000,000 for each of fiscal years 2016 through 2021.

(3) FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.—

(A) TRIBAL TRANSPORTATION PROGRAM.—For the tribal transportation program under section 202 of title 23, United States Code—

(i) $465,000,000 for fiscal year 2016;

(ii) $475,000,000 for fiscal year 2017;
(iii) $485,000,000 for fiscal year 2018;
(iv) $490,000,000 for fiscal year 2019;
(v) $495,000,000 for fiscal year 2020; and
(vi) $500,000,000 for fiscal year 2021.

(B) FEDERAL LANDS TRANSPORTATION PROGRAM.—

(i) IN GENERAL.—For the Federal lands transportation program under section 203 of title 23, United States Code—

(I) $325,000,000 for fiscal year 2016;
(II) $335,000,000 for fiscal year 2017;
(III) $345,000,000 for fiscal year 2018;
(IV) $350,000,000 for fiscal year 2019;
(V) $375,000,000 for fiscal year 2020; and
(VI) $400,000,000 for fiscal year 2021.

(ii) ALLOCATION.—Of the amount made available for a fiscal year under clause (i)—

(I) the amount for the National Park Service is—

(aa) $260,000,000 for fiscal year 2016;
(bb) $268,000,000 for fiscal year 2017;
(cc) $276,000,000 for fiscal year 2018;
(dd) $280,000,000 for fiscal year 2019;
(ee) $300,000,000 for fiscal year 2020; and
(ff) $320,000,000 for fiscal year 2021;

(II) the amount for the United States Fish and Wildlife Service is $30,000,000 for each of fiscal years 2016 through 2021; and

(III) the amount for the United States Forest Service is—

(aa) $15,000,000 for fiscal year 2016;
(bb) $16,000,000 for fiscal year 2017;
(cc) $17,000,000 for fiscal year 2018;
(dd) $18,000,000 for fiscal year 2019;
(ee) $19,000,000 for fiscal year 2020; and
(ff) $20,000,000 for fiscal year 2021.

(C) FEDERAL LANDS ACCESS PROGRAM.—For the Federal lands access program under section 204 of title 23, United States Code—

(i) $250,000,000 for fiscal year 2016;
(ii) $255,000,000 for fiscal year 2017;
(iii) $260,000,000 for fiscal year 2018;
(iv) $265,000,000 for fiscal year 2019;
(v) $270,000,000 for fiscal year 2020; and
(vi) $275,000,000 for fiscal year 2021.

(4) TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.—For the territorial and Puerto Rico highway program under section 165 of title 23, United States Code, $200,000,000 for each of fiscal years 2016 through 2021.

(5) NATIONALLY SIGNIFICANT FREIGHT AND HIGHWAY PROJECTS.—For nationally significant freight and highway projects under section 117 of title 23, United States Code—

(A) $725,000,000 for fiscal year 2016;
(B) $735,000,000 for fiscal year 2017; and
(C) $750,000,000 for each of fiscal years 2018 through 2021.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) FINDINGS.—Congress finds that—

(A) while significant progress has occurred due to the establishment of the disadvantaged business enterprise program, discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in federally assisted surface transportation markets across the United States;

(B) the continuing barriers described in subparagraph (A) merit the continuation of the disadvantaged business enterprise program;

(C) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits, which show that race- and gender-neutral efforts alone are insufficient to address the problem;

(D) the testimony and documentation described in subparagraph (C) demonstrate that discrimination across the United States poses a barrier to full and fair participation in surface transportation-related businesses of women business owners and minority business owners and has impacted firm de-

velopment and many aspects of surface transportation-related business in the public and private markets; and

(E) the testimony and documentation described in subparagraph (C) provide a strong basis that there is a compelling need for the continuation of the disadvantaged business enterprise program to address race and gender discrimination in surface transportation-related business.

(2) 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 $23,980,000, as adjusted annually by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning given the term in 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 subsection.

(3) 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, III, and VI of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(4) 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 (3) 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.

(5) 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.

(6) 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.

(7) 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, III, and VI of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with para-

graph (3) because a Federal court issues a final order in which the court finds that a requirement or the implementation of paragraph (3) is unconstitutional.

SEC. 1102. OBLIGATION CEILING.

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

(1) $40,867,000,000 for fiscal year 2016;
(2) $41,599,000,000 for fiscal year 2017;
(3) $42,453,000,000 for fiscal year 2018;
(4) $43,307,000,000 for fiscal year 2019;
(5) $44,201,000,000 for fiscal year 2020; and
(6) $45,096,000,000 for fiscal year 2021.

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

(1) section 125 of title 23, United States Code;
(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);
(3) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);
(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);
(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198);
(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027);
(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);
(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2004, but only in an amount equal to $639,000,000 for each of those fiscal years);
(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (112 Stat. 107) or subsequent Acts for multiple years or to remain available until expended, but only to the extent that the obligation authority has not lapsed or been used;
(10) section 105 of title 23, United States Code (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 (23 U.S.C. 118 note; 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;
(12) section 119 of title 23, United States Code (as in effect for fiscal years 2013 through 2015, but only in an amount equal to $639,000,000 for each of those fiscal years); and
(13) section 119 of title 23, United States Code (but, for fiscal years 2016 through 2021, only in an amount equal to $639,000,000 for each of those fiscal years).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2016 through 2021, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—
  (A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; and
  (B) amounts authorized for the Bureau of Transportation Statistics;
(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts—
  (A) made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety construction programs for previous fiscal years the funds for which are allocated by the Secretary (or apportioned by the Secretary under section 202 or 204 of title 23, United States Code); and
  (B) for which obligation authority was provided in a previous fiscal year;
(3) shall determine the proportion that—
  (A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2) of this subsection; bears to
  (B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs

(1) through (12) of subsection (b) and sums authorized to be appropriated for section 119 of title 23, United States Code, equal to the amount referred to in subsection (b)(13) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

(4) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs (other than programs to which paragraph (1) applies) that are allocated by the Secretary under this Act and title 23, United States Code, or apportioned by the Secretary under sections 202 or 204 of that title, by multiplying—

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

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

(5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraph (4), for Federal-aid highway and highway safety construction programs that are apportioned by the Secretary under title 23, United States Code (other than the amounts apportioned for the national highway performance program in section 119 of title 23, United States Code, that are exempt from the limitation under subsection (b)(13) and the amounts apportioned under sections 202 and 204 of that title) in the proportion that—

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

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

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2016 through 2021—

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

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 144 (as in effect on the day before the date of enactment of MAP–21 (Public Law 112–141)) and 104 of title 23, United States Code.

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

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

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

(B) title VI of this Act.

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

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

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

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2016 through 2021, the Secretary shall distribute to the States any funds (excluding funds authorized for the program under section 202 of title 23, United States Code) 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 (or will not be apportioned to the States under section 204 of title 23, United States Code), and will not be available for obligation, for the fiscal year because of the imposition of any obligation limitation for the fiscal year.

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

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

SEC. 1103. DEFINITIONS.

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

(1) by striking paragraph (29);

(2) by redesignating paragraphs (15) through (28) as paragraphs (16) through (29), respectively; and

(3) by inserting after paragraph (14) the following:

"(15) NATIONAL HIGHWAY FREIGHT NETWORK.—The term 'National Highway Freight Network' means the National Highway Freight Network established under section 167.".

SEC. 1104. APPORTIONMENT.

(a) ADMINISTRATIVE EXPENSES.—Section 104(a)(1) of title 23, United States Code, is amended to read as follows:

"(1) IN GENERAL.—There is 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 $440,000,000 for each of fiscal years 2016 through 2021.".

(b) DIVISION AMONG PROGRAMS OF STATE'S SHARE OF BASE APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended—

(1) in the subsection heading by striking "DIVISION OF STATE APPORTIONMENTS AMONG PROGRAMS" and inserting "DIVISION AMONG PROGRAMS OF STATE'S SHARE OF BASE APPORTIONMENT";

(2) in the matter preceding paragraph (1)—

(A) by inserting "of the base apportionment" after "the amount"; and

(B) by striking "surface transportation program" and inserting "surface transportation block grant program";

(3) in paragraph (2)—

(A) in the paragraph heading by striking "SURFACE TRANSPORTATION PROGRAM" and inserting "SURFACE TRANSPORTATION BLOCK GRANT PROGRAM"; and

(B) by striking "surface transportation program" and inserting "surface transportation block grant program"; and

(4) in each of paragraphs (4) and (5), in the matter preceding subparagraph (A), by inserting "of the base apportionment" after "the amount".

(c) CALCULATION OF STATE AMOUNTS.—Section 104(c) of title 23, United States Code, is amended to read as follows:

"(c) CALCULATION OF AMOUNTS.—

"(1) STATE SHARE.—For each of fiscal years 2016 through 2021, the amount for each State shall be determined as follows:

"(A) INITIAL AMOUNTS.—The initial amounts for each State shall be determined by multiplying—

"(i) each of—

"(I) the base apportionment;

"(II) supplemental funds reserved under subsection (h)(1) for the national highway performance program; and

"(III) supplemental funds reserved under subsection (h)(2) for the surface transportation block grant program; by

"(ii) the share for each State, which shall be equal to the proportion that—

"(I) the amount of apportionments that the State received for fiscal year 2015; bears to

"(II) the amount of those apportionments received by all States for that fiscal year.

"(B) ADJUSTMENTS TO AMOUNTS.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that each State receives an aggregate apportionment equal to at least 95 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(2) STATE APPORTIONMENT.—On October 1 of fiscal years 2016 through 2021, the Secretary shall apportion the sums authorized to be appropriated for expenditure on the national highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 in accordance with paragraph (1).".

(d) SUPPLEMENTAL FUNDS.—Section 104 of title 23, United States Code, is amended by adding at the end the following:

"(h) SUPPLEMENTAL FUNDS.—

"(1) SUPPLEMENTAL FUNDS FOR NATIONAL HIGHWAY PERFORMANCE PROGRAM.—

"(A) AMOUNT.—Before making an apportionment for a fiscal year under subsection (c), the Secretary shall reserve for the national highway performance program under section 119 for that fiscal year an amount equal to—

"(i) $53,596,122 for fiscal year 2019;

"(ii) $66,717,816 for fiscal year 2020; and

"(iii) $79,847,397 for fiscal year 2021.

"(B) TREATMENT OF FUNDS.—Funds reserved under subparagraph (A) and apportioned to a State under subsection (c) shall be treated as if apportioned under subsection (b)(1), and shall be in addition to amounts apportioned under that subsection.

"(2) SUPPLEMENTAL FUNDS FOR SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.—

"(A) AMOUNT.—Before making an apportionment for a fiscal year under subsection (c), the Secretary shall reserve for the surface transportation block grant program under section 133 for that fiscal year an amount equal to $819,900,000 pursuant to section 133(h), plus—

"(i) $70,526,310 for fiscal year 2016;

"(ii) $104,389,904 for fiscal year 2017;

"(iii) $148,113,536 for fiscal year 2018;

"(iv) $160,788,367 for fiscal year 2019;

"(v) $200,153,448 for fiscal year 2020; and

"(vi) $239,542,191 for fiscal year 2021.

"(B) TREATMENT OF FUNDS.—Funds reserved under subparagraph (A) and apportioned to a State under subsection (c) shall be treated as if apportioned under subsection (b)(2), and shall be in addition to amounts apportioned under that subsection.

"(i) BASE APPORTIONMENT DEFINED.—In this section, the term 'base apportionment' means—

"(1) the combined amount authorized for appropriation for the national highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134; minus

"(2) supplemental funds reserved under subsection (h) for the national highway performance program and the surface transportation block grant program.".

SEC. 1105. NATIONAL HIGHWAY PERFORMANCE PROGRAM.

Section 119 of title 23, United States Code, is amended—

(1) in subsection (e)(7)—

(A) by striking "this paragraph" and inserting "section 150(e)"; and

(B) by inserting "under section 150(e)" after "the next report submitted"; and

(2) by adding at the end the following:

"(h) TIFIA PROGRAM.—Upon Secretarial approval of credit assistance under chapter 6, the Secretary, at the request of a State, may allow the State to use funds apportioned under section 104(b)(1) to pay subsidy and administrative costs necessary to provide an eligible entity Federal credit assistance under chapter 6 with respect to a project eligible for assistance under this section.

"(i) ADDITIONAL FUNDING ELIGIBILITY FOR CERTAIN BRIDGES.—

"(1) IN GENERAL.—Funds apportioned to a State to carry out the national highway performance program may be obligated for a project for the reconstruction, resurfacing, restoration, rehabilitation, or preservation of a bridge not on the National Highway System, if the bridge is on a Federal-aid highway.

"(2) LIMITATION.—A State required to make obligations under subsection (f) shall ensure such requirements are satisfied in order to use the flexibility under paragraph (1).".

SEC. 1106. SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) the benefits of the surface transportation block grant program accrue principally to the residents of each State and municipality where the funds are obligated;

(2) decisions about how funds should be obligated are best determined by the States and municipalities to respond to unique local circumstances and implement the most efficient solutions; and

(3) reforms of the program to promote flexibility will enhance State and local control over transportation decisions.

(b) SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.—Section 133 of title 23, United States Code, is amended—

(1) by striking subsections (a), (b), (c), and (d) and inserting the following:

"(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation block grant program in accordance with this section to provide flexible funding to address State and local transportation needs.

"(b) ELIGIBLE PROJECTS.—Funds apportioned to a State under section 104(b)(2) for the surface transportation block grant program may be obligated for the following:

"(1) Construction of—

"(A) highways, bridges, tunnels, including designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40;

"(B) ferry boats and terminal facilities eligible for funding under section 129(c);

"(C) transit capital projects eligible for assistance under chapter 53 of title 49;

"(D) infrastructure-based intelligent transportation systems capital improvements;

"(E) truck parking facilities eligible for funding under section 1401 of MAP–21 (23 U.S.C. 137 note); and

"(F) border infrastructure projects eligible for funding under section 1303 of SAFETEA–LU (23 U.S.C. 101 note).

"(2) Operational improvements and capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(3) Environmental measures eligible under sections 119(g), 328, and 329 and transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi) of that section) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).

"(4) Highway and transit safety infrastructure improvements and programs, including railway-highway grade crossings.

"(5) Fringe and corridor parking facilities and programs in accordance with section 137 and carpool projects in accordance with section 146.

"(6) Recreational trails projects eligible for funding under section 206, pedestrian and bicycle projects in accordance with section 217 (including modifications to comply with accessibility requirements under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)), and the safe routes to school program under section 1404 of SAFETEA–LU (23 U.S.C. 402 note).

"(7) Planning, design, or construction of boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

"(8) Development and implementation of a State asset management plan for the National Highway System and a performance-based management program for other public roads.

"(9) Protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges (including approaches to bridges and other elevated structures) and tunnels on public roads, and inspection and evaluation of bridges and tunnels and other highway assets.

"(10) Surface transportation planning programs, highway and transit research and development and technology transfer programs, and workforce development, training, and education under chapter 5 of this title.

"(11) Surface transportation infrastructure modifications to facilitate direct intermodal interchange, transfer, and access into and out of a port terminal.

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

"(13) At the request of a State, and upon Secretarial approval of credit assistance under chapter 6, subsidy and administrative costs necessary to provide an eligible entity Federal credit assistance under chapter 6 with respect to a project eligible for assistance under this section.

"(14) The creation and operation by a State of an office to assist in the design, implementation, and oversight of public-private partnerships eligible to receive funding under this title and chapter 53 of title 49, and the payment of a stipend to unsuccessful private bidders to offset their proposal development costs, if necessary to encourage robust competition in public-private partnership procurements.

"(15) Any type of project eligible under this section as in effect on the day before the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, including projects described under section 101(a)(29) as in effect on such day.

"(c) LOCATION OF PROJECTS.—A surface transportation block grant project may not be undertaken on a road functionally classified as a local road or a rural minor collector unless the road was on a Federal-aid highway system on January 1, 1991, except—

"(1) for a bridge or tunnel project (other than the construction of a new bridge or tunnel at a new location);

"(2) for a project described in paragraphs (4) through (11) of subsection (b);

"(3) for a project described in section 101(a)(29), as in effect on the day before the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015; and

"(4) as approved by the Secretary.

"(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

"(1) CALCULATION.—Of the funds apportioned to a State under section 104(b)(2) (after the reservation of funds under subsection (h))—

"(A) the percentage specified in paragraph (6) for a fiscal year shall be obligated under this section, in proportion to their relative shares of the population of the State—

"(i) in urbanized areas of the State with an urbanized area population of over 200,000;

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

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

"(B) the remainder may be obligated in any area of the State.

"(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

"(3) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of paragraph (1)(A)(iii), 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 regional transportation planning organizations that represent the area, if any.

"(4) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

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

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

"(5) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135.

"(6) PERCENTAGE.—The percentage referred to in paragraph (1)(A) is—

"(A) for fiscal year 2016, 51 percent;

"(B) for fiscal year 2017, 52 percent;

"(C) for fiscal year 2018, 53 percent;

"(D) for fiscal year 2019, 54 percent;

"(E) for fiscal year 2020, 55 percent; and

"(F) for fiscal year 2021, 55 percent.";

(2) by striking the section heading and inserting "**Surface transportation block grant program**";

(3) by striking subsection (e);

(4) by redesignating subsections (f) through (h) as subsections (e) through (g), respectively;

(5) in subsection (e)(1), as redesignated by this subsection—

(A) by striking "104(b)(3)" and inserting "104(b)(2)"; and

(B) by striking "fiscal years 2011 through 2014" and inserting "fiscal years 2016 through 2021";

(6) in subsection (g)(1), as redesignated by this subsection, by striking "under subsection (d)(1)(A)(iii) for each of fiscal years 2013 through 2014" and inserting "under subsection (d)(1)(A)(ii) for each of fiscal years 2016 through 2021"; and

(7) by adding at the end the following:

"(h) STP SET-ASIDE.—

"(1) RESERVATION OF FUNDS.—Of the funds apportioned to a State under section 104(b)(2) for each fiscal year, the Secretary shall reserve an amount such that—

"(A) the Secretary reserves a total of $819,900,000 under this subsection; and

"(B) the State's share of that total is determined by multiplying the amount under subparagraph (A) by the ratio that—

"(i) the amount apportioned to the State for the transportation enhancements program for fiscal year 2009 under section 133(d)(2), as in effect on the day before the date of enactment of MAP–21; bears to

"(ii) the total amount of funds apportioned to all States for the transportation enhancements program for fiscal year 2009.

"(2) ALLOCATION WITHIN A STATE.—Funds reserved for a State under paragraph (1) shall be obligated within that State in the manner described in subsection (d), except that, for purposes of this paragraph (after funds are made available under paragraph (5))—

"(A) for each fiscal year, the percentage referred to in paragraph (1)(A) of that subsection shall be deemed to be 50 percent; and

"(B) the following provisions shall not apply:

"(i) Paragraph (3) of subsection (d).

"(ii) Subsection (e).

"(3) ELIGIBLE PROJECTS.—Funds reserved under this subsection may be obligated for projects or activities described in section 101(a)(29) or 213, as such provisions were in effect on the day before the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015.

"(4) ACCESS TO FUNDS.—

"(A) IN GENERAL.—A State or metropolitan planning organization required to obligate funds in accordance with paragraph (2) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection. A metropolitan planning organization for an area described in subsection (d)(1)(A)(i) shall select projects under such process in consultation with the relevant State.

"(B) ELIGIBLE ENTITY DEFINED.—In this paragraph, the term 'eligible entity' means—

"(i) a local government;

"(ii) a regional transportation authority;

"(iii) a transit agency;

"(iv) a natural resource or public land agency;

"(v) a school district, local education agency, or school;

"(vi) a tribal government; and

"(vii) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

"(5) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—For each fiscal year, a State shall—

"(A) obligate an amount of funds reserved under this section equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2), as in effect on the day before the date of enactment of MAP–21, for projects relating to recreational trails under section 206;

"(B) return 1 percent of those funds to the Secretary for the administration of that program; and

"(C) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described in subsection (d)(3)(A) of that section.

"(6) STATE FLEXIBILITY.—

"(A) RECREATIONAL TRAILS.—A State may opt out of the recreational trails program under paragraph (5) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.

"(B) LARGE URBANIZED AREAS.—A metropolitan planning area may use not to exceed 50 percent of the funds reserved under this subsection for an urbanized area described in subsection (d)(1)(A)(i) for any purpose eligible under subsection (b).

"(i) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section (excluding those carried out under subsection (h)(5)) shall be treated as projects on a Federal-aid highway under this chapter.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 126.—Section 126(b)(2) of title 23, United States Code, is amended—

(A) by striking "section 213" and inserting "section 133(h)"; and

(B) by striking "section 213(c)(1)(B)" and inserting "section 133(h)".

(2) SECTION 213.—Section 213 of title 23, United States Code, is repealed.

(3) SECTION 322.—Section 322(h)(3) of title 23, United States Code, is amended by striking "surface transportation program" and inserting "surface transportation block grant program".

(4) SECTION 504.—Section 504(a)(4) of title 23, United States Code, is amended—

(A) by striking "104(b)(3)" and inserting "104(b)(2)"; and

(B) by striking "surface transportation program" and inserting "surface transportation block grant program".

(5) CHAPTER 1.—Chapter 1 of title 23, United States Code, is amended by striking "surface transportation program" each place it appears and inserting "surface transportation block grant program".

(6) CHAPTER ANALYSES.—

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

"133. Surface transportation block grant program.".

(B) CHAPTER 2.—The item relating to section 213 in the analysis for chapter 2 of title 23, United States Code, is repealed.

(7) OTHER REFERENCES.—Any reference in any other law, regulation, document, paper, or other record of the United States to the surface transportation program under section 133 of title 23, United States Code, shall be deemed to be a reference to the surface transportation block grant program under such section.

SEC. 1107. RAILWAY-HIGHWAY GRADE CROSSINGS.

Section 130(e)(1) of title 23, United States Code, is amended to read as follows:

"(1) IN GENERAL.—

"(A) SET ASIDE.—Before making an apportionment under section 104(b)(3) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, for the elimination of hazards and the installation of protective devices at railway-highway crossings at least—

"(i) $225,000,000 for fiscal year 2016;

"(ii) $230,000,000 for fiscal year 2017;

"(iii) $235,000,000 for fiscal year 2018;

"(iv) $240,000,000 for fiscal year 2019;

"(v) $245,000,000 for fiscal year 2020; and

"(vi) $250,000,000 for fiscal year 2021.

"(B) INSTALLATION OF PROTECTIVE DEVICES.—At least ½ of the funds set aside each fiscal year under subparagraph (A) shall be available for the installation of protective devices at railway-highway crossings.

"(C) OBLIGATION AVAILABILITY.—Sums set aside each fiscal year under subparagraph (A) shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title.".

SEC. 1108. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) DEFINITIONS.—

(1) IN GENERAL.—Section 148(a) of title 23, United States Code, is amended—

(A) in paragraph (4)(B)—

(i) in the matter preceding clause (i), by striking "includes, but is not limited to," and inserting "only includes"; and

(ii) by adding at the end the following:

"(xxv) Installation of vehicle-to-infrastructure communication equipment.

"(xxvi) Pedestrian hybrid beacons.

"(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands.

"(xxviii) A physical infrastructure safety project not described in clauses (i) through (xxvii).";

(B) by striking paragraph (10); and

(C) by redesignating paragraphs (11) through (13) as paragraphs (10) through (12), respectively.

(2) CONFORMING AMENDMENTS.—Section 148 of title 23, United States Code, is amended—

(A) in subsection (c)(1)(A) by striking "subsections (a)(12)" and inserting "subsections (a)(11)"; and

(B) in subsection (d)(2)(B)(i) by striking "subsection (a)(12)" and inserting "subsection (a)(11)".

(b) DATA COLLECTION.—Section 148(f) of title 23, United States Code, is amended by adding at the end the following:

"(3) PROCESS.—The Secretary shall establish a process to allow a State to cease to collect the subset referred to in paragraph (2)(A) for public roads that are gravel roads or otherwise unpaved if—

"(A) the State does not use funds provided to carry out this section for a project on such roads until the State completes a collection of the required model inventory of roadway elements for the roads; and

"(B) the State demonstrates that the State consulted with affected Indian tribes before ceasing to collect data with respect to such roads that are included in the National Tribal Transportation Facility Inventory.

"(4) RULE OF CONSTRUCTION.—Nothing in paragraph (3) may be construed to allow a State to cease data collection related to serious injuries or fatalities.".

(c) RURAL ROAD SAFETY.—Section 148(g)(1) of title 23, United States Code, is amended—

(1) by striking "If the fatality rate" and inserting the following:

"(A) IN GENERAL.—If the fatality rate"; and

(2) by adding at the end the following:

"(B) FATALITIES EXCEEDING THE MEDIAN RATE.—If the fatality rate on rural roads in a State, for the most recent 2-year period for which data is available, is more than the median fatality rate for rural roads among all States for such 2-year period, the State shall be required to demonstrate, in the subsequent State strategic highway safety plan of the State, strategies to address fatalities and achieve safety improvements on high risk rural roads.".

(d) COMMERCIAL MOTOR VEHICLE SAFETY BEST PRACTICES.—

(1) REVIEW.—The Secretary shall conduct a review of best practices with respect to the implementation of roadway safety infrastructure improvements that—

(A) are cost effective; and

(B) reduce the number or severity of accidents involving commercial motor vehicles.

(2) CONSULTATION.—In conducting the review under paragraph (1), the Secretary shall consult with State transportation departments and units of local government.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, and make available on the public Internet Web site of the Department, a report describing the results of the review conducted under paragraph (1).

SEC. 1109. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (7) by striking "or" at the end;

(2) in paragraph (8) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(9) if the project or program is for the installation of vehicle-to-infrastructure communication equipment.".

(b) STATES FLEXIBILITY.—Section 149(d) of title 23, United States Code, is amended to read as follows:

"(d) STATES FLEXIBILITY.—

"(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(4) for any project in the State that—

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

"(B) is eligible under the surface transportation block grant program under section 133.

"(2) STATES WITH A NONATTAINMENT AREA.—

"(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subpara-

graphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21, the State may use, for any project that would otherwise be eligible under subsection (b) if the project were carried out in a nonattainment or maintenance area or is eligible under the surface transportation block grant program under section 133, an amount of funds apportioned to such State under section 104(b)(4) that is equal to the product obtained by multiplying—

"(i) the amount apportioned to such State under section 104(b)(4) (excluding the amounts reserved for obligation under subsection (k)(1)); by

"(ii) the ratio calculated under subparagraph (B).

"(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as the proportion that—

"(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP–21; bears to

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

"(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify, in a manner consistent with the approach that was in effect on the day before the date of enactment of MAP–21, the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.".

(c) PRIORITY CONSIDERATION.—Section 149(g)(3) of title 23, United States Code, is amended to read as follows:

"(3) PRIORITY CONSIDERATION.—

"(A) IN GENERAL.—In distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) in areas designated as nonattainment or maintenance for PM2.5 under the Clean Air Act (42 U.S.C. 7401 et seq.) and where regional motor vehicle emissions are not an insignificant contributor to the air quality problem for PM2.5, States and metropolitan planning organizations shall give priority to projects, including diesel retrofits, that are proven to reduce direct emissions of PM2.5.

"(B) USE OF FUNDING.—To the maximum extent practicable, funding used in an area described in subparagraph (A) shall be used on the most cost-effective projects and programs that are proven to reduce directly emitted fine particulate matter.".

(d) PRIORITY FOR USE OF FUNDS IN PM2.5 AREAS.—Section 149(k) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "such fine particulate" and inserting "directly emitted fine particulate"; and

(2) by adding at the end the following:

"(3) PM2.5 NONATTAINMENT AND MAINTENANCE IN LOW POPULATION DENSITY STATES.—

"(A) EXCEPTION.—For any State with a population density of 80 or fewer persons per square mile of land area, based on the most recent decennial census, subsection (g)(3) and paragraphs (1) and (2) of this subsection do not apply to a nonattainment or maintenance area in the State if—

"(i) the nonattainment or maintenance area does not have projects that are part of the emissions analysis of a metropolitan transportation plan or transportation improvement program; and

"(ii) regional motor vehicle emissions are an insignificant contributor to the air quality problem for PM2.5 in the nonattainment or maintenance area.

"(B) CALCULATION.—If subparagraph (A) applies to a nonattainment or maintenance area in a State, the percentage of the PM2.5 set aside under paragraph (1) shall be reduced for that State proportionately based on the weighted population of the area in fine particulate matter nonattainment.".

(e) PERFORMANCE PLAN.—Section 149(l)(1)(B) of title 23, United States Code, is amended by inserting "emission and congestion reduction" after "achieving the".

SEC. 1110. NATIONAL HIGHWAY FREIGHT POLICY.

(a) IN GENERAL.—Section 167 of title 23, United States Code, is amended to read as follows:

"§ 167. National highway freight policy

"(a) IN GENERAL.—It is the policy of the United States to improve the condition and performance of the National Highway Freight Network established under this section to ensure that the Network provides a foundation for the United States to compete in the global economy and achieve the goals described in subsection (b).

"(b) GOALS.—The goals of the national highway freight policy are—

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

"(A) strengthen the contribution of the National Highway Freight Network to the economic competitiveness of the United States;

"(B) reduce congestion and bottlenecks on the National Highway Freight Network; and

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

"(2) to improve the safety, security, and resilience of highway freight transportation;

"(3) to improve the state of good repair of the National Highway Freight Network;

"(4) to use innovation and advanced technology to improve the safety, efficiency, and reliability of the National Highway Freight Network;

"(5) to improve the economic efficiency of the National Highway Freight Network;

"(6) to improve the short and long distance movement of goods that—

"(A) travel across rural areas between population centers; and

"(B) travel between rural areas and population centers;

"(7) to improve the flexibility of States to support multi-State corridor planning and the creation of multi-State organizations to increase the ability of States to address highway freight connectivity; and

"(8) to reduce the environmental impacts of freight movement on the National Highway Freight Network.

"(c) ESTABLISHMENT OF NATIONAL HIGHWAY FREIGHT NETWORK.—

"(1) IN GENERAL.—The Secretary shall establish a National Highway Freight Network in accordance with this section to strategically direct Federal resources and policies toward improved performance of the Network.

"(2) NETWORK COMPONENTS.—The National Highway Freight Network shall consist of—

"(A) the Interstate System;

"(B) non-Interstate highway segments on the 41,000-mile comprehensive primary freight network developed by the Secretary under section 167(d) as in effect on the day before the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015; and

"(C) additional non-Interstate highway segments designated by the States under subsection (d).

"(d) STATE ADDITIONS TO NETWORK.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, each State, in consultation with the State freight advisory committee, may increase the number of miles designated as part of the National Highway Freight Network by not more than 10 percent of the miles designated in that State under subparagraphs (A) and (B) of subsection (c)(2) if the additional miles—

"(A) close gaps between segments of the National Highway Freight Network;

"(B) establish connections from the National Highway Freight Network to critical facilities for the efficient movement of freight, including ports, freight railroads, international border crossings, airports, intermodal facilities, warehouse and logistics centers, and agricultural facilities; or

"(C) are part of critical emerging freight corridors or critical commerce corridors.

"(2) SUBMISSION.—Each State shall—

"(A) submit to the Secretary a list of the additional miles added under this subsection; and

"(B) certify that the additional miles meet the requirements of paragraph (1).

"(e) REDESIGNATION.—

"(1) REDESIGNATION BY SECRETARY.—

"(A) IN GENERAL.—Effective beginning 5 years after the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, and every 5 years thereafter, the Secretary shall redesignate the highway seg-

ments designated by the Secretary under subsection (c)(2)(B) that are on the National Highway Freight Network.

"(B) CONSIDERATIONS.—In redesignating highway segments under subparagraph (A), the Secretary shall consider—

"(i) changes in the origins and destinations of freight movements in the United States;

"(ii) changes in the percentage of annual average daily truck traffic in the annual average daily traffic on principal arterials;

"(iii) changes in the location of key facilities;

"(iv) critical emerging freight corridors; and

"(v) network connectivity.

"(C) LIMITATION.—Each redesignation under subparagraph (A) may increase the mileage on the National Highway Freight Network designated by the Secretary by not more than 3 percent.

"(2) REDESIGNATION BY STATES.—

"(A) IN GENERAL.—Effective beginning 5 years after the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, and every 5 years thereafter, each State may, in consultation with the State freight advisory committee, redesignate the highway segments designated by the State under subsection (c)(2)(C) that are on the National Highway Freight Network.

"(B) CONSIDERATIONS.—In redesignating highway segments under subparagraph (A), the State shall consider—

"(i) gaps between segments of the National Highway Freight Network;

"(ii) needed connections from the National Highway Freight Network to critical facilities for the efficient movement of freight, including ports, freight railroads, international border crossings, airports, intermodal facilities, warehouse and logistics centers, and agricultural facilities; and

"(iii) critical emerging freight corridors or critical commerce corridors.

"(C) LIMITATION.—Each redesignation under subparagraph (A) may increase the mileage on the National Highway Freight Network designated by the State by not more than 3 percent.

"(D) RESUBMISSION.—Each State, under the advisement of the State freight advisory committee, shall—

"(i) submit to the Secretary a list of the miles redesignated under this paragraph; and

"(ii) certify that the redesignated miles meet the requirements of subsection (d)(1).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 167 and inserting the following:

"167. National highway freight policy.".

SEC. 1111. NATIONALLY SIGNIFICANT FREIGHT AND HIGHWAY PROJECTS.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 116 the following:

"§ 117. Nationally significant freight and highway projects

"(a) ESTABLISHMENT.—There is established a nationally significant freight and highway projects program to provide financial assistance for projects of national or regional significance that will—

"(1) improve the safety, efficiency, and reliability of the movement of freight and people;

"(2) generate national or regional economic benefits and an increase in the global economic competitiveness of the United States;

"(3) reduce highway congestion and bottlenecks;

"(4) improve connectivity between modes of freight transportation; or

"(5) enhance the strength, durability, and serviceability of critical highway infrastructure.

"(b) GRANT AUTHORITY.—In carrying out the program established in subsection (a), the Secretary may make grants, on a competitive basis, in accordance with this section.

"(c) ELIGIBLE APPLICANTS.—

"(1) IN GENERAL.—The Secretary may make a grant under this section to the following:

"(A) A State or group of States.

"(B) A metropolitan planning organization that serves an urbanized area (as defined by the Bureau of the Census) with a population of more than 200,000 individuals.

"(C) A unit of local government.

"(D) A special purpose district or public authority with a transportation function, including a port authority.

"(E) A Federal land management agency that applies jointly with a State or group of States.

"(2) APPLICATIONS.—To be eligible for a grant under this section, an entity specified in paragraph (1) shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary determines is appropriate.

"(d) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—Except as provided in subsection (h), the Secretary may make a grant under this section only for a project that—

"(A) is—

"(i) a freight project carried out on the National Highway Freight Network established under section 167 of this title;

"(ii) a highway or bridge project carried out on the National Highway System;

"(iii) an intermodal or rail freight project carried out on the National Multimodal Freight Network established under section 70103 of title 49; or

"(iv) a railway-highway grade crossing or grade separation project; and

"(B) has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

"(i) $100,000,000; or

"(ii) in the case of a project—

"(I) located in 1 State, 30 percent of the amount apportioned under this chapter to the State in the most recently completed fiscal year; or

"(II) located in more than 1 State, 50 percent of the amount apportioned under this chapter to the participating State with the largest apportionment under this chapter in the most recently completed fiscal year.

"(2) LIMITATION.—

"(A) IN GENERAL.—Not more than $500,000,000 of the amounts made available for grants under this section for fiscal years 2016 through 2021, in the aggregate, may be used to make grants for projects described in paragraph (1)(A)(iii) and such a project may only receive a grant under this section if—

"(i) the project will make a significant improvement to freight movements on the National Highway Freight Network; and

"(ii) the Federal share of the project funds only elements of the project that provide public benefits.

"(B) EXCLUSIONS.—The limitation under subparagraph (A) shall—

"(i) not apply to a railway-highway grade crossing or grade separation project; and

"(ii) with respect to a multimodal project, shall apply only to the nonhighway portion or portions of the project.

"(e) ELIGIBLE PROJECT COSTS.—Grant amounts received for a project under this section may be used for—

"(1) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

"(2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

"(f) PROJECT REQUIREMENTS.—The Secretary may make a grant for a project described under subsection (d) only if the relevant applicant demonstrates that—

"(1) the project will generate national or regional economic, mobility, or safety benefits;

"(2) the project will be cost effective;

"(3) the project will contribute to the accomplishment of 1 or more of the national goals described under section 150 of this title;

"(4) the project is based on the results of preliminary engineering;

"(5) with respect to related non-Federal financial commitments—

"(A) 1 or more stable and dependable sources of funding and financing are available to construct, maintain, and operate the project; and

"(B) contingency amounts are available to cover unanticipated cost increases;

"(6) the project cannot be easily addressed using other funding available to the project sponsor under this chapter; and

"(7) the project is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.

"(g) ADDITIONAL CONSIDERATIONS.—In making a grant under this section, the Secretary shall consider—

"(1) the extent to which a project utilizes nontraditional financing, innovative design and construction techniques, or innovative technologies;

"(2) the amount and source of non-Federal contributions with respect to the proposed project; and

"(3) the need for geographic diversity among grant recipients, including the need for a balance between the needs of rural and urban communities.

"(h) RESERVED AMOUNTS.—

"(1) IN GENERAL.—The Secretary shall reserve not less than 10 percent of the amounts made available for grants under this section each fiscal year to make grants for projects described in subsection (d)(1)(A)(i) that do not satisfy the minimum threshold under subsection (d)(1)(B).

"(2) GRANT AMOUNT.—Each grant made under this subsection shall be in an amount that is at least $5,000,000.

"(3) PROJECT SELECTION CONSIDERATIONS.—In addition to other applicable requirements, in making grants under this subsection the Secretary shall consider—

"(A) the cost effectiveness of the proposed project; and

"(B) the effect of the proposed project on mobility in the State and region in which the project is carried out.

"(4) EXCESS FUNDING.—In any fiscal year in which qualified applications for grants under this subsection will not allow for the amount reserved under paragraph (1) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under this section.

"(5) RURAL AREAS.—The Secretary shall reserve not less than 20 percent of the amounts made available for grants under this section, including the amounts made available under paragraph (1), each fiscal year to make grants for projects located in rural areas.

"(i) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of a project assisted with a grant under this section may not exceed 50 percent.

"(2) NON-FEDERAL SHARE.—Funds apportioned to a State under section 104(b)(1) or 104(b)(2) may be used to satisfy the non-Federal share of the cost of a project for which a grant is made under this section so long as the total amount of Federal funding for the project does not exceed 80 percent of project costs.

"(j) AGREEMENTS TO COMBINE AMOUNTS.—Two or more entities specified in subsection (c)(1) may combine, pursuant to an agreement entered into by the entities, any part of the amounts provided to the entities from grants under this section for a project for which the relevant grants were made if—

"(1) the agreement will benefit each entity entering into the agreement; and

"(2) the agreement is not in violation of a law of any such entity.

"(k) TREATMENT OF FREIGHT PROJECTS.—Notwithstanding any other provision of law, a freight project carried out under this section shall be treated as if the project is located on a Federal-aid highway.

"(l) TIFIA PROGRAM.—At the request of an eligible applicant under this section, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to provide the entity Federal credit assistance under chapter 6 with respect to the project for which the grant was awarded.

"(m) CONGRESSIONAL NOTIFICATION.—

"(1) NOTIFICATION.—At least 60 days before making a grant for a project under this section, 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 grant. The notification shall include an evaluation and justification for the project and the amount of the proposed grant award.

"(2) CONGRESSIONAL DISAPPROVAL.—The Secretary may not make a grant or any other obligation or commitment to fund a project under this section if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in paragraph (1).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 116 the following:

"117. Nationally significant freight and highway projects.".

(c) REPEAL.—Section 1301 of SAFETEA–LU (23 U.S.C. 101 note), and the item relating to that section in the table of contents in section 1(b) of such Act, are repealed.

SEC. 1112. TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.

Section 165(a) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "$150,000,000" and inserting "$158,000,000"; and

(2) in paragraph (2) by striking "$40,000,000" and inserting "$42,000,000".

SEC. 1113. FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAM.

Section 201(c)(6) of title 23, United States Code, is amended by adding at the end the following:

"(C) TRIBAL DATA COLLECTION.—In addition to the data to be collected under subparagraph (A), not later than 90 days after the last day of each fiscal year, any entity carrying out a project under the tribal transportation program under section 202 shall submit to the Secretary and the Secretary of the Interior, based on obligations and expenditures under the tribal transportation program during the preceding fiscal year, the following data:

"(i) The names of projects and activities carried out by the entity under the tribal transportation program during the preceding fiscal year.

"(ii) A description of the projects and activities identified under clause (i).

"(iii) The current status of the projects and activities identified under clause (i).

"(iv) An estimate of the number of jobs created and the number of jobs retained by the projects and activities identified under clause (i).".

SEC. 1114. TRIBAL TRANSPORTATION PROGRAM.

Section 202(a)(6) of title 23, United States Code, is amended by striking "6 percent" and inserting "5 percent".

SEC. 1115. FEDERAL LANDS TRANSPORTATION PROGRAM.

Section 203 of title 23, United States Code, is amended—

(1) in subsection (a)(1)(B) by striking "operation" and inserting "capital, operations,";

(2) in subsection (b)—

(A) in paragraph (1)(B)—

(i) in clause (iv) by striking "and" at the end;

(ii) in clause (v) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(vi) the Bureau of Reclamation; and

"(vii) independent Federal agencies with natural resource and land management responsibilities."; and

(B) in paragraph (2)(B)—

(i) in the matter preceding clause (i) by inserting "performance management, including" after "support"; and

(ii) in clause (i)(II) by striking ", and" and inserting "; and"; and

(3) in subsection (c)(2)(B) by adding at the end the following:

"(vi) The Bureau of Reclamation.".

SEC. 1116. TRIBAL TRANSPORTATION SELF-GOVERNANCE PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 206 the following:

"SEC. 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.—Subject to paragraphs (2) and (3), an Indian tribe shall be eligible to participate in the program if the Indian tribe requests participation in the program by resolution or other official action by the governing body of the Indian tribe, and demonstrates, for the preceding 3 fiscal years, financial

stability and financial management capability, and transportation program management capability.

"(2) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purposes of paragraph (1), 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 financial stability and financial management capability.

"(3) CRITERIA FOR DETERMINING TRANSPORTATION PROGRAM MANAGEMENT CAPABILITY.—The Secretary shall require an Indian tribe to demonstrate transportation program management capability, including the capability to manage and complete projects eligible under this title and projects eligible under chapter 53 of title 49, to gain eligibility for the program.

"(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) FORMULA FUNDING AND DISCRETIONARY 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, tribal transit formula 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(a).

"(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—

"(AA) section 202(b)(7); and

"(BB) section 202(d)(5), as in effect before the date of enactment of MAP–21 (Public Law 112–141); 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 the Surface Transportation Reauthorization and Reform Act of 2015.

"(3) 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.

"(4) 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 1 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.

"(5) 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 the requirements in—

"(aa) appropriations Acts;

"(bb) this title and chapter 53 of title 49; and

"(cc) any other applicable law.

"(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, services, 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 SECRETARY.—

"(1) DECISIONMAKER.—A decision that 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 450j–1 of title 25, 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 450j–1(f) of title 25.

"(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) REVIEW.—The Secretary shall review any application by an Indian tribe for a waiver bearing in mind increasing opportunities for using flexible policy approaches at the Indian tribal level.

"(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) DENIALS.—If the application for a waiver is not granted, the agency shall provide the applicant with the reasons for the denial as part of the written response required in clause (i).

"(v) 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 tribal transportation program funding agreements and program agreements; or

"(B) enter into new agreements under the authority of section 202(b)(7).

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to impair or diminish the authority of the Secretary under section 202(b)(7).

"(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 any reference to the Secretary of the Interior or the Secretary of Health and Human Services in such provisions shall be treated as a reference 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 intertribal 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, intertribal 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, intertribal 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 Surface Transportation Reauthorization and Reform Act of 2015, 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 paragraph (1) shall expire 30 months after such date of enactment.

"(D) EXTENSION OF DEADLINES.—A deadline set forth in paragraph (1)(B) or (1)(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, 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.".

SEC. 1117. EMERGENCY RELIEF.

(a) ELIGIBILITY.—Section 125(d)(3) of title 23, United States Code, is amended—

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

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

(3) by adding at the end the following:

"(C) projects eligible for assistance under this section located on Federal lands transportation facilities or other federally owned roads that are open to public travel (as defined in subsection (e)).".

(b) DEFINITIONS.—Section 125(e) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

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

"(A) OPEN TO PUBLIC TRAVEL.—The term 'open to public travel' means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road—

"(i) is maintained;

"(ii) is open to the general public; and

"(iii) can accommodate travel by a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

"(B) STANDARD PASSENGER VEHICLE.—The term 'standard passenger vehicle' means a vehicle with 6 inches of clearance from the lowest point of the frame, body, suspension, or differential to the ground.".

SEC. 1118. HIGHWAY USE TAX EVASION PROJECTS.

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

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

"(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary may deduct such sums as are necessary, not to exceed $6,000,000 for each of fiscal years 2016 through 2021, to carry out this section.";

(2) in the heading for paragraph (8) by inserting "BLOCK GRANT" after "SURFACE TRANSPORTATION"; and

(3) in paragraph (9) by inserting ", the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate" after "the Secretary".

SEC. 1119. BUNDLING OF BRIDGE PROJECTS.

Section 144 of title 23, United States Code, is amended—

(1) in subsection (c)(2)(A) by striking "the natural condition of the bridge" and inserting "the natural condition of the water";

(2) by redesignating subsection (j) as subsection (k);

(3) by inserting after subsection (i) the following:

"(j) BUNDLING OF BRIDGE PROJECTS.—

"(1) PURPOSE.—The purpose of this subsection is to save costs and time by encouraging States to bundle multiple bridge projects as 1 project.

"(2) ELIGIBLE ENTITY DEFINED.—In this subsection, the term 'eligible entity' means an entity eligible to carry out a bridge project under section 119 or 133.

"(3) BUNDLING OF BRIDGE PROJECTS.—An eligible entity may bundle 2 or more similar bridge projects that are—

"(A) eligible projects under section 119 or 133;

"(B) included as a bundled project in a transportation improvement program under section 134(j) or a statewide transportation improvement program under section 135, as applicable; and

"(C) awarded to a single contractor or consultant pursuant to a contract for engineering and design or construction between the contractor and an eligible entity.

"(4) ITEMIZATION.—Notwithstanding any other provision of law (including regulations), a bundling of bridge projects under this subsection may be listed as—

"(A) 1 project for purposes of sections 134 and 135; and

"(B) a single project within the applicable bundle.

"(5) FINANCIAL CHARACTERISTICS.—Projects bundled under this subsection shall have the same financial characteristics, including—

"(A) the same funding category or subcategory; and

"(B) the same Federal share.

"(6) ENGINEERING COST REIMBURSEMENT.—The provisions of section 102(b) do not apply to projects carried out under this subsection."; and

(4) in subsection (k)(2), as redesignated by paragraph (2) of this section, by striking "104(b)(3)" and inserting "104(b)(2)".

SEC. 1120. TRIBAL HIGH PRIORITY PROJECTS PROGRAM.

Section 1123(h)(1) of MAP–21 (23 U.S.C. 202 note) is amended by striking "fiscal years" and all that follows through the period at the end and inserting "fiscal years 2016 through 2021.".

SEC. 1121. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

Section 147(e) of title 23, United States Code, is amended by striking "2013 and 2014" and inserting "2016 through 2021".

Subtitle B—Planning and Performance Management

SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.

Section 134 of title 23, United States Code, is amended—

(1) in subsection (c)(2), by striking "and bicycle transportation facilities" and inserting ", bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities";

(2) in subsection (d)—

(A) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively;

(B) by inserting after paragraph (2) the following:

"(3) REPRESENTATION.—

"(A) IN GENERAL.—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

"(B) PUBLIC TRANSPORTATION REPRESENTATIVE.—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

"(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).."; and

(C) in paragraph (5) as so redesignated by striking "paragraph (5)" and inserting "paragraph (6)";

(3) in subsection (e)(4)(B), by striking "subsection (d)(5)" and inserting "subsection (d)(6)";

(4) in subsection (g)(3)(A), by inserting "tourism, natural disaster risk reduction," after "economic development,";

(5) in subsection (h)—

(A) in paragraph (1)—

(i) in subparagraph (G), by striking "and" at the end;

(ii) in subparagraph (H) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(I) improve the resilience and reliability of the transportation system; and

"(J) enhance travel and tourism."; and

(B) in paragraph (2)(A) by striking "and in section 5301(c) of title 49" and inserting "and the general purposes described in section 5301 of title 49";

(6) in subsection (i)—

(A) in paragraph (2)(A)(i) by striking "transit," and inserting "public transportation facilities, intercity bus facilities,";

(B) in paragraph (6)(A)—

(i) by inserting "public ports," before "freight shippers,"; and

(ii) by inserting "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)" after "private providers of transportation"; and

(C) in paragraph (8) by striking "paragraph (2)(C)" and inserting "paragraph (2)(E)" each place it appears;

(7) in subsection (k)(3)—

(A) in subparagraph (A) by inserting "(including intercity bus operators, employer-based commuting programs such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects," after "reduction"; and

(B) by adding at the end the following:

"(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization with a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

"(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

"(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

"(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

"(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and nonprofit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.";

(8) in subsection (l)—

(A) by adding a period at the end of paragraph (1); and

(B) in paragraph (2)(D) by striking "of less than 200,000" and inserting "with a population of 200,000 or less";

(9) in subsection (n)(1) by inserting "49" after "chapter 53 of title"; and

(10) in subsection (p) by striking "Funds set aside under section 104(f)" and inserting "Funds apportioned under section 104(b)(5)".

SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

Section 135 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "and bicycle transportation facilities" and inserting, ", bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities";

(2) in subsection (d)—

(A) in paragraph (1)—

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

(ii) in subparagraph (H) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(I) improve the resilience and reliability of the transportation system; and

"(J) enhance travel and tourism."; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking "and in section 5301(c) of title 49" and inserting "and the general purposes described in section 5301 of title 49";

(ii) in subparagraph (B)(ii) by striking "urbanized"; and

(iii) in subparagraph (C) by striking "urbanized"; and

(3) in subsection (f)—

(A) in paragraph (3)(A)(ii)—

(i) by inserting "public ports," before "freight shippers,"; and

(ii) by inserting "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)" after "private providers of transportation"; and

(B) in paragraph (7), in the matter preceding subparagraph (A), by striking "should" and inserting "shall".

Subtitle C—Acceleration of Project Delivery

SEC. 1301. SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES.

(a) HIGHWAYS.—Section 138 of title 23, United States Code, is amended by adding at the end the following:

"(c) SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES.—

"(1) IN GENERAL.—The Secretary shall—

"(A) align, to the maximum extent practicable, with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.) and section 306108 of title 54, including implementing regulations; and

"(B) not later than 90 days after the date of enactment of this subsection, coordinate with the Secretary of the Interior and the Executive Director of the Advisory Council on Historic Preservation (referred to in this subsection as the 'Council') to establish procedures to satisfy the requirements described in subparagraph (A) (including regulations).

"(2) AVOIDANCE ALTERNATIVE ANALYSIS.—

"(A) IN GENERAL.—If, in an analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the Secretary deter-

mines that there is no feasible or prudent alternative to avoid use of a historic site, the Secretary may—

"(i) include the determination of the Secretary in the analysis required under that Act;

"(ii) provide a notice of the determination to—

"(I) each applicable State historic preservation officer and tribal historic preservation officer;

"(II) the Council, if the Council is participating in the consultation process under section 306108 of title 54; and

"(III) the Secretary of the Interior; and

"(iii) request from the applicable preservation officer, the Council, and the Secretary of the Interior a concurrence that the determination is sufficient to satisfy the requirement of subsection (a)(1).

"(B) CONCURRENCE.—If the applicable preservation officer, the Council, and the Secretary of the Interior each provide a concurrence requested under subparagraph (A)(iii), no further analysis under subsection (a)(1) shall be required.

"(C) PUBLICATION.—A notice of a determination, together with each relevant concurrence to that determination, under subparagraph (A) shall be—

"(i) included in the record of decision or finding of no significant impact of the Secretary; and

"(ii) posted on an appropriate Federal Web site by not later than 3 days after the date of receipt by the Secretary of all concurrences requested under subparagraph (A)(iii).

"(3) ALIGNING HISTORICAL REVIEWS.—

"(A) IN GENERAL.—If the Secretary, the applicable preservation officer, the Council, and the Secretary of the Interior concur that no feasible and prudent alternative exists as described in paragraph (2), the Secretary may provide to the applicable preservation officer, the Council, and the Secretary of the Interior notice of the intent of the Secretary to satisfy the requirements of subsection (a)(2) through the consultation requirements of section 306108 of title 54.

"(B) SATISFACTION OF CONDITIONS.—To satisfy the requirements of subsection (a)(2), each individual described in paragraph (2)(A)(ii) shall concur in the treatment of the applicable historic site described in the memorandum of agreement or programmatic agreement developed under section 306108 of title 54.".

(b) PUBLIC TRANSPORTATION.—Section 303 of title 49, United States Code, is amended by adding at the end the following:

"(e) SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES.—

"(1) IN GENERAL.—The Secretary shall—

"(A) align, to the maximum extent practicable, the requirements of this section with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.) and section 306108 of title 54, including implementing regulations; and

"(B) not later than 90 days after the date of enactment of this subsection, coordinate with the Secretary of the Interior and the Executive Director of the Advisory Council on Historic Preservation (referred to in this subsection as the 'Council') to establish procedures to satisfy the requirements described in subparagraph (A) (including regulations).

"(2) AVOIDANCE ALTERNATIVE ANALYSIS.—

"(A) IN GENERAL.—If, in an analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the Secretary determines that there is no feasible or prudent alternative to avoid use of a historic site, the Secretary may—

"(i) include the determination of the Secretary in the analysis required under that Act;

"(ii) provide a notice of the determination to—

"(I) each applicable State historic preservation officer and tribal historic preservation officer;

"(II) the Council, if the Council is participating in the consultation process under section 306108 of title 54; and

"(III) the Secretary of the Interior; and

"(iii) request from the applicable preservation officer, the Council, and the Secretary of the Interior a concurrence that the determination is sufficient to satisfy the requirement of subsection (c)(1).

"(B) CONCURRENCE.—If the applicable preservation officer, the Council, and the Secretary of the Interior each provide a concurrence requested

under subparagraph (A)(iii), no further analysis under subsection (a)(1) shall be required.

"(C) PUBLICATION.—A notice of a determination, together with each relevant concurrence to that determination, under subparagraph (A) shall be—

"(i) included in the record of decision or finding of no significant impact of the Secretary; and

"(ii) posted on an appropriate Federal Web site by not later than 3 days after the date of receipt by the Secretary of all concurrences requested under subparagraph (A)(iii).

"(3) ALIGNING HISTORICAL REVIEWS.—

"(A) IN GENERAL.—If the Secretary, the applicable preservation officer, the Council, and the Secretary of the Interior concur that no feasible and prudent alternative exists as described in paragraph (2), the Secretary may provide to the applicable preservation officer, the Council, and the Secretary of the Interior notice of the intent of the Secretary to satisfy the requirements of subsection (c)(2) through the consultation requirements of section 306108 of title 54.

"(B) SATISFACTION OF CONDITIONS.—To satisfy the requirements of subsection (c)(2), the applicable preservation officer, the Council, and the Secretary of the Interior shall concur in the treatment of the applicable historic site described in the memorandum of agreement or programmatic agreement developed under section 306108 of title 54.".

SEC. 1302. TREATMENT OF IMPROVEMENTS TO RAIL AND TRANSIT UNDER PRESERVATION REQUIREMENTS.

(a) TITLE 23 AMENDMENT.—Section 138 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(d) RAIL AND TRANSIT.—

"(1) IN GENERAL.—Improvements to, or the maintenance, rehabilitation, or operation of, railroad or rail transit lines or elements thereof that are in use or were historically used for the transportation of goods or passengers shall not be considered a use of a historic site under subsection (a), regardless of whether the railroad or rail transit line or element thereof is listed on, or eligible for listing on, the National Register of Historic Places.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) stations; or

"(ii) bridges or tunnels located on—

"(I) railroad lines that have been abandoned; or

"(II) transit lines that are not in use.

"(B) CLARIFICATION WITH RESPECT TO CERTAIN BRIDGES AND TUNNELS.—The bridges and tunnels referred to in subparagraph (A)(ii) do not include bridges or tunnels located on railroad or transit lines—

"(i) over which service has been discontinued; or

"(ii) that have been railbanked or otherwise reserved for the transportation of goods or passengers.".

(b) TITLE 49 AMENDMENT.—Section 303 of title 49, United States Code, as amended by this Act, is further amended—

(1) in subsection (c), in the matter preceding paragraph (1), by striking "subsection (d)" and inserting "subsections (d), (e), and (f)"; and

(2) by adding at the end the following:

"(f) RAIL AND TRANSIT.—

"(1) IN GENERAL.—Improvements to, or the maintenance, rehabilitation, or operation of, railroad or rail transit lines or elements thereof that are in use or were historically used for the transportation of goods or passengers shall not be considered a use of a historic site under subsection (c), regardless of whether the railroad or rail transit line or element thereof is listed on, or eligible for listing on, the National Register of Historic Places.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) stations; or

"(ii) bridges or tunnels located on—

"(I) railroad lines that have been abandoned; or

"(II) transit lines that are not in use.

"(B) CLARIFICATION WITH RESPECT TO CERTAIN BRIDGES AND TUNNELS.—The bridges and tunnels referred to in subparagraph (A)(ii) do not include bridges or tunnels located on railroad or transit lines—

"(i) over which service has been discontinued; or

"(ii) that have been railbanked or otherwise reserved for the transportation of goods or passengers.".

SEC. 1303. CLARIFICATION OF TRANSPORTATION ENVIRONMENTAL AUTHORITIES.

(a) TITLE 23 AMENDMENT.—Section 138 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(e) REFERENCES TO PAST TRANSPORTATION ENVIRONMENTAL AUTHORITIES.—

"(1) SECTION 4(F) REQUIREMENTS.—The requirements of this section are commonly referred to as section 4(f) requirements (see section 4(f) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 934) as in effect before the repeal of that section).

"(2) SECTION 106 REQUIREMENTS.—The requirements of section 306108 of title 54 are commonly referred to as section 106 requirements (see section 106 of the National Historic Preservation Act of 1966 (Public Law 89–665; 80 Stat. 915) as in effect before the repeal of that section).".

(b) TITLE 49 AMENDMENT.—Section 303 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(g) REFERENCES TO PAST TRANSPORTATION ENVIRONMENTAL AUTHORITIES.—

"(1) SECTION 4(F) REQUIREMENTS.—The requirements of this section are commonly referred to as section 4(f) requirements (see section 4(f) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 934) as in effect before the repeal of that section).

"(2) SECTION 106 REQUIREMENTS.—The requirements of section 306108 of title 54 are commonly referred to as section 106 requirements (see section 106 of the National Historic Preservation Act of 1966 (Public Law 89–665; 80 Stat. 915) as in effect before the repeal of that section).".

SEC. 1304. TREATMENT OF CERTAIN BRIDGES UNDER PRESERVATION REQUIREMENTS.

(a) TITLE 23 AMENDMENT.—Section 138 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(f) BRIDGE EXEMPTION.—A common post-1945 concrete or steel bridge or culvert that is exempt from individual review under section 306108 of title 54 (as described in 77 Fed. Reg. 68790) shall be treated under this section as having a de minimis impact on an area.".

(b) TITLE 49 AMENDMENT.—Section 303 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(h) BRIDGE EXEMPTION.—A common post-1945 concrete or steel bridge or culvert that is exempt from individual review under section 306108 of title 54 (as described in 77 Fed. Reg. 68790) shall be treated under this section as having a de minimis impact on an area.".

SEC. 1305. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

(a) DEFINITIONS.—Section 139(a) of title 23, United States Code, is amended—

(1) by striking paragraph (5) and inserting the following:

"(5) MULTIMODAL PROJECT.—The term 'multimodal project' means a project that requires the approval of more than 1 Department of Transportation operating administration or secretarial office.";

(2) by adding at the end the following:

"(9) SUBSTANTIAL DEFERENCE.—The term 'substantial deference' means deference by a participating agency to the recommendations and decisions of the lead agency unless it is not possible to defer without violating the participating agency's statutory responsibilities.".

(b) APPLICABILITY.—Section 139(b)(3) of title 23, United States Code, is amended—

(1) in subparagraph (A) in the matter preceding clause (i) by striking "initiate a rulemaking to"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall ensure that programmatic reviews—

"(i) promote transparency, including the transparency of—

"(I) the analyses and data used in the environmental reviews;

"(II) the treatment of any deferred issues raised by agencies or the public; and

"(III) the temporal and spatial scales to be used to analyze issues under subclauses (I) and (II);

"(ii) use accurate and timely information, including through establishment of—

"(I) criteria for determining the general duration of the usefulness of the review; and

"(II) a timeline for updating an out-of-date review;

"(iii) describe—

"(I) the relationship between any programmatic analysis and future tiered analysis; and

"(II) the role of the public in the creation of future tiered analysis;

"(iv) are available to other relevant Federal and State agencies, Indian tribes, and the public; and

"(v) provide notice and public comment opportunities consistent with applicable requirements.".

(c) FEDERAL LEAD AGENCY.—Section 139(c)(1)(A) of title 23, United States Code, is amended by inserting ", or an operating administration thereof designated by the Secretary," after "Department of Transportation".

(d) PARTICIPATING AGENCIES.—

(1) INVITATION.—Section 139(d)(2) of title 23, United States Code, is amended by striking "The lead agency shall identify, as early as practicable in the environmental review process for a project," and inserting "Not later than 45 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall identify".

(2) SINGLE NEPA DOCUMENT.—Section 139(d) of title 23, United States Code, is amended by adding at the end the following:

"(8) SINGLE NEPA DOCUMENT.—

"(A) IN GENERAL.—Except as inconsistent with paragraph (7), to the maximum extent practicable and consistent with Federal law, all Federal permits and reviews for a project shall rely on a single environment document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the leadership of the lead agency.

"(B) USE OF DOCUMENT.—

"(i) IN GENERAL.—To the maximum extent practicable, the lead agency shall develop an environmental document sufficient to satisfy the requirements for any Federal approval or other Federal action required for the project, including permits issued by other Federal agencies.

"(ii) COOPERATION OF PARTICIPATING AGENCIES.—Other participating agencies shall cooperate with the lead agency and provide timely information to help the lead agency carry out this subparagraph.

"(C) TREATMENT AS PARTICIPATING AND COOPERATING AGENCIES.—A Federal agency required to make an approval or take an action for a project, as described in subparagraph (B), shall work with the lead agency for the project to ensure that the agency making the approval or taking the action is treated as being both a participating and cooperating agency for the project.".

(e) PROJECT INITIATION.—Section 139(e) of title 23, United States Code, is amended by adding at the end the following:

"(3) ENVIRONMENTAL CHECKLIST.—

"(A) DEVELOPMENT.—The lead agency for a project, in consultation with participating agencies, shall develop, as appropriate, a checklist to help project sponsors identify potential natural, cultural, and historic resources in the area of the project.

"(B) PURPOSE.—The purposes of the checklist are—

"(i) to identify agencies and organizations that can provide information about natural, cultural, and historic resources;

"(ii) to develop the information needed to determine the range of alternatives; and

"(iii) to improve interagency collaboration to help expedite the permitting process for the lead agency and participating agencies.".

(f) PURPOSE AND NEED.—Section 139(f) of title 23, United States Code, is amended—

(1) in the subsection heading by inserting "; ALTERNATIVES ANALYSIS" after "NEED";

(2) in paragraph (4)—

(A) by striking subparagraph (A) and inserting the following:

"(A) PARTICIPATION.—

"(i) IN GENERAL.—As early as practicable during the environmental review process, the lead agency shall seek the involvement of participating agencies and the public for the purpose of reaching agreement early in the environmental review process on a reasonable range of alternatives that will satisfy all subsequent Federal environmental review and permit requirements.

"(ii) COMMENTS OF PARTICIPATING AGENCIES.—To the maximum extent practicable and consistent with applicable law, each participating agency receiving an opportunity for involvement under clause (i) shall—

"(I) limit the agency's comments to subject matter areas within the agency's special expertise or jurisdiction; and

"(II) afford substantial deference to the range of alternatives recommended by the lead agency.

"(iii) EFFECT OF NONPARTICIPATION.—A participating agency that declines to participate in the development of the purpose and need and reasonable range of alternatives for a project shall be required to comply with the schedule developed under subsection (g)(1)(B).."; and

(B) in subparagraph (B)—

(i) by striking "Following participation under paragraph (1)" and inserting the following:

"(i) DETERMINATION.—Following participation under subparagraph (A)"; and

(ii) by adding at the end the following:

"(ii) USE.—To the maximum extent practicable and consistent with Federal law, the range of alternatives determined for a project under clause (i) shall be used for all Federal environmental reviews and permit processes required for the project unless the alternatives must be modified—

"(I) to address significant new information or circumstances, and the lead agency and participating agencies agree that the alternatives must be modified to address the new information or circumstances; or

"(II) for the lead agency or a participating agency to fulfill its responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in a timely manner.".

(g) COORDINATION AND SCHEDULING.—

(1) COORDINATION PLAN.—Section 139(g)(1) of title 23, United States Code, is amended—

(A) in subparagraph (A) by striking "The lead agency" and inserting "Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency"; and

(B) in subparagraph (B)(i) by striking "may establish" and inserting "shall establish".

(2) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—Section 139(g)(3) of title 23, United States Code, is amended to read as follows:

"(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

"(A) IN GENERAL.—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 by law, regulation, or Executive order to be made after the date on which the lead agency has issued a categorical exclusion, finding of no significant impact, or record of decision with respect to the project, any such later decision shall be made or completed by the later of—

"(i) the date that is 180 days after the lead agency's final decision has been made; or

"(ii) the date that is 180 days after the date on which a completed application was submitted for the permit or license.

"(B) TREATMENT OF DELAYS.—Following the deadline established by subparagraph (A), 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, and publish on the Department's Internet Web site—

"(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

"(ii) 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.".

(3) ADOPTION OF DOCUMENTS; ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.—

(A) IN GENERAL.—Section 139(g) of title 23, United States Code, is amended—

(i) by redesignating paragraph (4) as paragraph (5); and

(ii) by inserting after paragraph (3) the following:

"(4) ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.—

"(A) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et

seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, subject to the condition that the errata sheets—

"(i) cite the sources, authorities, and reasons that support the position of the agency; and

"(ii) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

"(B) SINGLE DOCUMENT.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

"(i) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

"(ii) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.".

(B) CONFORMING AMENDMENT.—Section 1319 of MAP–21 (42 U.S.C. 4332a), and the item relating to that section in the table of contents contained in section 1(c) of that Act, are repealed.

(h) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) ISSUE RESOLUTION.—Section 139(h) of title 23, United States Code, is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) ISSUE RESOLUTION.—Any issue resolved by the lead agency and participating agencies may not be reconsidered unless significant new information or circumstances arise.".

(2) FAILURE TO ASSURE.—Section 139(h)(5)(C) of title 23, United States Code, (as redesignated by paragraph (1)(A) of this subsection) is amended by striking "paragraph (5) and" and inserting "paragraph (6)".

(3) ACCELERATED ISSUE RESOLUTION AND REFERRAL.—Section 139(h)(6) of title 23, United States Code, (as redesignated by paragraph (1)(A) of this subsection) is amended by striking subparagraph (C) and inserting the following:

"(C) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.—

"(i) IN GENERAL.—If issue resolution for a project is not achieved on or before the 30th day after the date of a meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

"(ii) MEETING.—Not later than 30 days after the date of receipt of a referral from the Secretary under clause (i), the Council on Environmental Quality shall hold an issue resolution meeting with—

"(I) the head of the lead agency;

"(II) the heads of relevant participating agencies; and

"(III) the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor).

"(iii) RESOLUTION.—The Council on Environmental Quality shall work with the lead agency, relevant participating agencies, and the project sponsor until all issues are resolved.".

(4) FINANCIAL PENALTY PROVISIONS.—Section 139(h)(7)(B)(i)(I) of title 23, United States Code, (as redesignated by paragraph (1)(A) of this subsection) is amended by striking "under section 106(i) is required" and inserting "is required under subsection (h) or (i) of section 106".

(i) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 139(j)(1) of title 23, United States Code, is amended to read as follows:

"(1) IN GENERAL.—

"(A) AUTHORITY TO PROVIDE FUNDS.—The Secretary may allow a public entity receiving financial assistance from the Department of Transportation under this title or chapter 53 of title 49 to provide funds to Federal agencies (including the Department), State agencies, and Indian tribes participating in the environmental review process for the project or program.

"(B) USE OF FUNDS.—Funds referred to in subparagraph (A) may be provided only to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval, and consultation processes for the project or program.".

(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Section 139(j)(2) of title 23, United States Code, is amended by inserting "activities directly related to the environmental review process," before "dedicated staffing,".

(3) AGREEMENT.—Section 139(j)(6) of title 23, United States Code, is amended to read as follows:

"(6) AGREEMENT.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected agency under paragraphs (1) and (2), the affected agency and the requesting public entity shall enter into an agreement that establishes the projects and priorities to be addressed by the use of the funds.".

(j) IMPLEMENTATION OF PROGRAMMATIC COMPLIANCE.—

(1) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a rulemaking to implement the provisions of section 139(b)(3) of title 23, United States Code, as amended by this section.

(2) CONSULTATION.—Before initiating the rulemaking under paragraph (1), the Secretary shall consult with relevant Federal agencies, relevant State resource agencies, State departments of transportation, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches.

(3) REQUIREMENTS.—In carrying out this subsection, the Secretary shall ensure that the rulemaking meets the requirements of section 139(b)(3)(B) of title 23, United States Code, as amended by this section.

(4) COMMENT PERIOD.—The Secretary shall—

(A) allow not fewer than 60 days for public notice and comment on the proposed rule; and

(B) address any comments received under this subsection.

SEC. 1306. IMPROVING TRANSPARENCY IN ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) maintain and use a searchable Internet Web site—

(A) to make publicly available the status and progress of projects, as defined in section 139 of title 23, United States Code, requiring an environmental assessment or an environmental impact statement with respect to compliance with applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal, State, or local approval required for such projects; and

(B) to make publicly available the names of participating agencies not participating in the development of a project purpose and need and range of alternatives under section 139(f) of title 23, United States Code; and

(2) in coordination with agencies described in subsection (b) and State agencies, issue reporting standards to meet the requirements of paragraph (1).

(b) FEDERAL, STATE, AND LOCAL AGENCY PARTICIPATION.—A Federal, State, or local agency participating in the environmental review or permitting process for a project, as defined in section 139 of title 23, United States Code, shall provide to the Secretary information regarding the status and progress of the approval of the project for publication on the Internet Web site maintained under subsection (a), consistent with the standards established under subsection (a).

(c) STATES WITH DELEGATED AUTHORITY.—A State with delegated authority for responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) pursuant to section 327 of title 23, United States Code, shall be responsible for supplying project development and compliance status to the Secretary for all applicable projects.

SEC. 1307. INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.

(a) DEFINITIONS.—Section 168(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) ENVIRONMENTAL REVIEW PROCESS.—The term 'environmental review process' has the meaning given that term in section 139(a).";

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

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

"(2) LEAD AGENCY.—The term 'lead agency' has the meaning given that term in section 139(a).'; and

(4) by striking paragraph (3) (as redesignated by paragraph (2) of this subsection) and inserting the following:

"(3) PLANNING PRODUCT.—The term 'planning product' means a decision, analysis, study, or other documented information that is the result of an evaluation or decisionmaking process carried out by a metropolitan planning organization or a State, as appropriate, during metropolitan or statewide transportation planning under section 134 or section 135, respectively.".

(b) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—Section 168(b) of title 23, United States Code, is amended—

(1) in the subsection heading by inserting "OR INCORPORATION BY REFERENCE" after "ADOPTION";

(2) in paragraph (1) by striking "the Federal lead agency for a project may adopt" and inserting "and to the maximum extent practicable and appropriate, the lead agency for a project may adopt or incorporate by reference";

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

(4) by striking paragraph (2) (as so redesignated) and inserting the following:

"(2) PARTIAL ADOPTION OR INCORPORATION BY REFERENCE OF PLANNING PRODUCTS.—The lead agency may adopt or incorporate by reference a planning product under paragraph (1) in its entirety or may select portions for adoption or incorporation by reference."; and

(5) in paragraph (3) (as so redesignated) by inserting "or incorporation by reference" after "adoption".

(c) APPLICABILITY.—

(1) PLANNING DECISIONS.—Section 168(c)(1) of title 23, United States Code, is amended—

(A) in the matter preceding subparagraph (A) by striking "adopted" and inserting "adopted or incorporated by reference by the lead agency";

(B) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively;

(C) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) the project purpose and need;";

(D) by striking subparagraph (B) (as so redesignated) and inserting the following:

"(B) the preliminary screening of alternatives and elimination of unreasonable alternatives;";

(E) in subparagraph (C) (as so redesignated) by inserting "and general travel corridor" after "modal choice";

(F) in subparagraph (E) (as so redesignated) by striking "and" at the end;

(G) in subparagraph (F) (as so redesignated)—

(i) in the matter preceding clause (i) by striking "potential impacts" and all that follows through "resource agencies," and inserting "potential impacts of a project, including a programmatic mitigation plan developed in accordance with section 169, that the lead agency"; and

(ii) in clause (ii) by striking the period at the end and inserting "; and"; and

(H) by adding at the end the following:

"(G) whether tolling, private financial assistance, or other special financial measures are necessary to implement the project.".

(2) PLANNING ANALYSES.—Section 168(c)(2) of title 23, United States Code, is amended—

(A) in the matter preceding subparagraph (A) by striking "adopted" and inserting "adopted or incorporated by reference by the lead agency";

(B) in subparagraph (G)—

(i) by inserting "direct, indirect, and" before "cumulative effects"; and

(ii) by striking ", identified as a result of a statewide or regional cumulative effects assessment"; and

(C) in subparagraph (H)—

(i) by striking "proposed action" and inserting "proposed project"; and

(ii) by striking "Federal lead agency" and inserting "lead agency".

(d) CONDITIONS.—Section 168(d) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking "Adoption and use" and all that follows through "Federal lead agency, that" and inserting "The lead agency in the environmental review process may adopt or incorporate by reference and use a planning product under this section if the lead agency determines that";

(2) in paragraph (2) by striking "by engaging in active consultation" and inserting "in consultation";

(3) by striking paragraphs (4) and (5) and inserting the following:

"(4) The planning process included public notice that the planning products may be adopted or incorporated by reference during a subsequent environmental review process in accordance with this section.

"(5) During the environmental review process, but prior to determining whether to rely on and use the planning product, the lead agency has—

"(A) made the planning documents available for review and comment by members of the general public and Federal, State, local, and tribal governments that may have an interest in the proposed action;

"(B) provided notice of the lead agency's intent to adopt the planning product or incorporate the planning product by reference; and

"(C) considered any resulting comments.";

(4) in paragraph (9)—

(A) by inserting "or incorporation by reference" after "adoption"; and

(B) by inserting "and is sufficient to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)" after "for the project"; and

(5) in paragraph (10) by striking "not later than 5 years prior to date on which the information is adopted" and inserting "within the 5-year period ending on the date on which the information is adopted or incorporated by reference".

(e) EFFECT OF ADOPTION OR INCORPORATION BY REFERENCE.—Section 168(e) of title 23, United States Code, is amended—

(1) in the subsection heading by inserting "OR INCORPORATION BY REFERENCE" after "ADOPTION"; and

(2) by striking "adopted by the Federal lead agency" and inserting "adopted or incorporated by reference by the lead agency".

SEC. 1308. DEVELOPMENT OF PROGRAMMATIC MITIGATION PLANS.

Section 169(f) of title 23, United States Code, is amended by striking "may use" and inserting "shall give substantial weight to".

SEC. 1309. DELEGATION OF AUTHORITIES.

(a) IN GENERAL.—The Secretary shall use the authority under section 106(c) of title 23, United States Code, to the maximum extent practicable, to delegate responsibility to the States for project design, plans, specifications, estimates, contract awards, and inspection of projects, on both a project-specific and programmatic basis.

(b) SUBMISSION OF RECOMMENDATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary, in cooperation with the States, 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 recommendations for legislation to permit the delegation of additional authorities to the States, including with respect to real estate acquisition and project design.

SEC. 1310. CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE.

(a) ADJUSTMENT FOR INFLATION.—Section 1317 of MAP–21 (23 U.S.C. 109 note) is amended—

(1) in paragraph (1)(A) by inserting "(as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor)" after "$5,000,000"; and

(2) in paragraph (1)(B) by inserting "(as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor)" after "$30,000,000".

(b) RETROACTIVE APPLICATION.—The first adjustment made pursuant to the amendments made by subsection (a) shall—

(1) be carried out not later than 60 days after the date of enactment of this Act; and

(2) reflect the increase in the Consumer Price Index since July 1, 2012.

SEC. 1311. APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.

Section 304 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "operating authority that" and inserting "operating administration or secretarial office that has expertise but"; and

(ii) by inserting "proposed multimodal" after "with respect to a"; and

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

"(2) LEAD AUTHORITY.—The term 'lead authority' means a Department of Transportation operating administration or secretarial office that has the lead responsibility for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a proposed multimodal project.";

(2) in subsection (b) by inserting "or title 23" after "under this title";

(3) by striking subsection (c) and inserting the following:

"(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—In considering the environmental impacts of a proposed multimodal project, a lead authority may apply categorical exclusions designated under the National Environ-

mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in implementing regulations or procedures of a cooperating authority for a proposed multimodal project, subject to the conditions that—

"(1) the lead authority makes a determination, with the concurrence of the cooperating authority—

"(A) on the applicability of a categorical exclusion to a proposed multimodal project; and

"(B) that the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section;

"(2) the lead authority follows the cooperating authority's implementing regulations or procedures under such Act; and

"(3) the lead authority determines that—

"(A) the proposed multimodal project does not individually or cumulatively have a significant impact on the environment; and

"(B) extraordinary circumstances do not exist that merit additional analysis and documentation in an environmental impact statement or environmental assessment required under such Act."; and

(4) by striking subsection (d) and inserting the following:

"(d) COOPERATING AUTHORITY EXPERTISE.—A cooperating authority shall provide expertise to the lead authority on aspects of the multimodal project in which the cooperating authority has expertise.".

SEC. 1312. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.

Section 327 of title 23, United States Code, is amended—

(1) in subsection (a)(2)(B)(iii) by striking "(42 U.S.C. 13 4321 et seq.)" and inserting "(42 U.S.C. 4321 et seq.)";

(2) in subsection (c)(4) by inserting "reasonably" before "considers necessary";

(3) in subsection (e) by inserting "and without further approval of" after "in lieu of";

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following:

"(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—

"(A) not later than 6 months after execution of the agreement, meet with the State to review implementation of the agreement and discuss plans for the first annual audit;

"(B) conduct annual audits during each of the first 4 years of State participation; and

"(C) ensure that the time period for completing an annual audit, from initiation to completion (including public comment and responses to those comments), does not exceed 180 days."; and

(B) by adding at the end the following:

"(3) AUDIT TEAM.—An audit conducted under paragraph (1) shall be carried out by an audit team determined by the Secretary, in consultation with the State. Such consultation shall include a reasonable opportunity for the State to review and provide comments on the proposed members of the audit team."; and

(5) by adding at the end the following:

"(k) CAPACITY BUILDING.—The Secretary, in cooperation with representatives of State officials, may carry out education, training, peer-exchange, and other initiatives as appropriate—

"(1) to assist States in developing the capacity to participate in the assignment program under this section; and

"(2) to promote information sharing and collaboration among States that are participating in the assignment program under this section.

"(l) RELATIONSHIP TO LOCALLY ADMINISTERED PROJECTS.—A State granted authority under this section may, as appropriate and at the request of a local government—

"(1) exercise such authority on behalf of the local government for a locally administered project; or

"(2) provide guidance and training on consolidating and minimizing the documentation and environmental analyses necessary for sponsors of a locally administered project to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any comparable requirements under State law.".

SEC. 1313. PROGRAM FOR ELIMINATING DUPLICATION OF ENVIRONMENTAL REVIEWS.

(a) PURPOSE.—The purpose of this section is to eliminate duplication of environmental reviews and approvals under State and Federal laws.

(b) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"§ 330. Program for eliminating duplication of environmental reviews

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program to authorize States that are approved to participate in the program to conduct environmental reviews and make approvals for projects under State environmental laws and regulations instead of Federal environmental laws and regulations, consistent with the requirements of this section.

"(2) PARTICIPATING STATES.—The Secretary may select not more than 5 States to participate in the program.

"(3) ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.—In this section, the term 'alternative environmental review and approval procedures' means—

"(A) substitution of 1 or more State environmental laws for—

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

"(ii) such provisions of sections 109(h), 128, and 139 related to the application of that Act that are under the authority of the Secretary, as the Secretary, in consultation with the State, considers appropriate; and

"(iii) related regulations and Executive orders; and

"(B) substitution of 1 or more State environmental regulations for—

"(i) the National Environmental Policy Act of 1969;

"(ii) such provisions of sections 109(h), 128, and 139 related to the application of that Act that are under the authority of the Secretary, as the Secretary, in consultation with the State, considers appropriate; and

"(iii) related regulations and Executive orders.

"(b) APPLICATION.—To be eligible 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) each Federal law described in subsection (a)(3) that the State is seeking to substitute;

"(3) each State law and regulation that the State intends to substitute for such Federal law, Federal regulation, or Executive order;

"(4) an explanation of the basis for concluding that the State law or regulation is substantially equivalent to the Federal law described in subsection (a)(3);

"(5) a description of the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

"(6) verification that the State has the financial resources necessary to carry out the authority that may be granted under the program;

"(7) evidence of having sought, received, and addressed comments on the proposed application from the public; and

"(8) any such additional information as the Secretary, or, with respect to section (d)(1)(A), the Secretary in consultation with the Chair, may require.

"(c) REVIEW OF APPLICATION.—In accordance with subsection (d), the Secretary shall—

"(1) review an application submitted under subsection (b);

"(2) approve or disapprove the application not later than 90 days after the date of 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 APPLICATION.—

"(1) IN GENERAL.—The Secretary shall approve an application submitted under subsection (b) only if—

"(A) the Secretary, with the concurrence of the Chair, determines that the laws and regulations of the State described in the application are substantially equivalent to the Federal laws that the State is seeking to substitute;

"(B) the Secretary determines that the State has the capacity, including financial and personnel, to assume the responsibility; and

"(C) the State has executed an agreement with the Secretary, in accordance with section 327, providing for environmental review, consultation, or

other action under Federal environmental laws pertaining to the review or approval of a specific project.

"(2) EXCLUSION.—The National Environmental Policy Act of 1969 shall not apply to a decision by the Secretary to approve or disapprove an application submitted under this section.

"(e) JUDICIAL REVIEW.—

"(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State—

"(A) for failure of the State to meet the requirements of this section; or

"(B) if the action involves the exercise of authority by the State under this section and section 327.

"(2) STATE JURISDICTION.—A State court shall have exclusive jurisdiction over any civil action against a State if the action involves the exercise of authority by the State under this section not covered by paragraph (1).

"(f) ELECTION.—At its discretion, a State participating in the programs under this section and section 327 may elect to apply the National Environmental Protection Act of 1969 instead of the State's alternative environmental review and approval procedures.

"(g) TREATMENT OF STATE LAWS AND REGULATIONS.—To the maximum extent practicable and consistent with Federal law, other Federal agencies with authority over a project subject to this section shall use documents produced by a participating State under this section to satisfy the requirements of the National Environmental Policy Act of 1969.

"(h) RELATIONSHIP TO LOCALLY ADMINISTERED PROJECTS.—

"(1) IN GENERAL.—A State with an approved program under this section, at the request of a local government, may exercise authority under that program on behalf of up to 10 local governments for locally administered projects.

"(2) SCOPE.—For up to 10 local governments selected by a State with an approved program under this section, the State shall be responsible for ensuring that any environmental review, consultation, or other action required under the National Environmental Policy Act of 1969 or the State program, or both, meets the requirements of such Act or program.

"(i) REVIEW AND TERMINATION.—

"(1) IN GENERAL.—A State program approved under this section shall at all times be in accordance with the requirements of this section.

"(2) REVIEW.—The Secretary shall review each State program approved under this section not less than once every 5 years.

"(3) PUBLIC NOTICE AND COMMENT.—In conducting the review process under paragraph (2), the Secretary shall provide notice and an opportunity for public comment.

"(4) WITHDRAWAL OF APPROVAL.—If the Secretary, in consultation with the Chair, determines at any time that a State is not administering a State program approved under this section in accordance with the requirements of this section, the Secretary shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Secretary shall withdraw approval of the State program.

"(5) EXTENSIONS AND TERMINATIONS.—At the conclusion of the review process under paragraph (2), the Secretary may extend for an additional 5-year period or terminate the authority of a State under this section to substitute that State's laws and regulations for Federal laws.

"(j) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the administration of the program, including—

"(1) the number of States participating in the program;

"(2) the number and types of projects for which each State participating in the program has used alternative environmental review and approval procedures; and

"(3) any recommendations for modifications to the program.

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

"(1) CHAIR.—The term 'Chair' means the Chair of the Council on Environmental Quality.

"(2) MULTIMODAL PROJECT.—The term 'multimodal project' has the meaning given that term in section 139(a).

"(3) PROGRAM.—The term 'program' means the pilot program established under this section.

"(4) PROJECT.—The term 'project' means—

"(A) a project requiring approval under this title, chapter 53 of subtitle III of title 49, or subtitle V of title 49; and

"(B) a multimodal project.".

(c) RULEMAKING.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Chair of the Council on Environmental Quality, shall promulgate regulations to implement the requirements of section 330 of title 23, United States Code, as added by this section.

(2) DETERMINATION OF SUBSTANTIALLY EQUIVALENT.—As part of the rulemaking required under this subsection, the Chair shall—

(A) establish the criteria necessary to determine that a State law or regulation is substantially equivalent to a Federal law described in section 330(a)(3) of title 23, United States Code;

(B) ensure that such criteria, at a minimum—

(i) provide for protection of the environment;

(ii) provide opportunity for public participation and comment, including access to the documentation necessary to review the potential impact of a project; and

(iii) ensure a consistent review of projects that would otherwise have been covered under Federal law.

(d) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"330. Program for eliminating duplication of environmental reviews.".

SEC. 1314. ASSESSMENT OF PROGRESS ON ACCELERATING PROJECT DELIVERY.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall assess the progress made under this Act, MAP–21 (Public Law 112–141), and SAFETEA–LU (Public Law 109–59), including the amendments made by those Acts, to accelerate the delivery of Federal-aid highway and highway safety construction projects and public transportation capital projects by streamlining the environmental review and permitting process.

(b) CONTENTS.—The assessment required under subsection (a) shall evaluate—

(1) how often the various streamlining provisions have been used;

(2) which of the streamlining provisions have had the greatest impact on streamlining the environmental review and permitting process;

(3) what, if any, impact streamlining of the process has had on environmental protection;

(4) how, and the extent to which, streamlining provisions have improved and accelerated the process for permitting under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable Federal laws;

(5) what impact actions by the Council on Environmental Quality have had on accelerating Federal-aid highway and highway safety construction projects and public transportation capital projects;

(6) the number and percentage of projects that proceed under a traditional environmental assessment or environmental impact statement, and the number and percentage of projects that proceed under categorical exclusions;

(7) the extent to which the environmental review and permitting process remains a significant source of project delay and the sources of delays; and

(8) the costs of conducting environmental reviews and issuing permits or licenses for a project, including the cost of contractors and dedicated agency staff.

(c) RECOMMENDATIONS.—The assessment required under subsection (a) shall include recommendations with respect to—

(1) additional opportunities for streamlining the environmental review process, including regulatory or statutory changes to accelerate the processes of Federal agencies (other than the Department) with responsibility for reviewing Federal-aid highway and highway safety construction projects and public transportation capital projects without negatively impacting the environment; and

(2) best practices of other Federal agencies that should be considered for adoption by the Department.

(d) REPORT TO CONGRESS.—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 Environment and Public Works of the Senate a report containing the assessment and recommendations required under this section.

SEC. 1315. IMPROVING STATE AND FEDERAL AGENCY ENGAGEMENT IN ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—Title 49, United States Code, is amended by inserting after section 306 the following:

"§ 307. Improving State and Federal agency engagement in environmental reviews

"(a) IN GENERAL.—

"(1) REQUESTS TO PROVIDE FUNDS.—A public entity receiving financial assistance from the Department of Transportation for 1 or more projects, or for a program of projects, for a public purpose may request that the Secretary allow the public entity to provide funds to Federal agencies, including the Department, State agencies, and Indian tribes participating in the environmental planning and review process for the project, projects, or program.

"(2) USE OF FUNDS.—The funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval, and consultation processes for the project, projects, or program.

"(b) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under subsection (a) include transportation planning activities that precede the initiation of the environmental review process, activities directly related to the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

"(c) AMOUNTS.—Requests under subsection (a) 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 timely conduct their review.

"(d) AGREEMENTS.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under subsection (a), the affected Federal agency and the requesting public entity shall enter into an agreement that establishes a process to identify projects or priorities to be addressed by the use of the funds.

"(e) RULEMAKING.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall initiate a rulemaking to implement this section.

"(2) FACTORS.—As part of the rulemaking carried out under paragraph (1), the Secretary shall ensure—

"(A) to the maximum extent practicable, that expediting and improving the process of environmental review and permitting through the use of funds accepted and expended under this section does not adversely affect the timeline for review and permitting by Federal agencies, State agencies, or Indian tribes of other entities that have not contributed funds under this section;

"(B) that the use of funds accepted under this section will not impact impartial decisionmaking with respect to environmental reviews or permits, either substantively or procedurally; and

"(C) that the Secretary maintains, and makes publicly available, including on the Internet, a list of projects or programs for which such review or permits have been carried out using funds authorized under this section.

"(f) EXISTING AUTHORITY.—Nothing in this section may be construed to conflict with section 139(j) of title 23.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by inserting after the item relating to section 306 the following:

"307. Improving State and Federal agency engagement in environmental reviews.".

SEC. 1316. ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—Title 49, United States Code, is amended by inserting after section 304 the following:

"§ 304a. Accelerated decisionmaking in environmental reviews

"(a) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets attached to the statement, instead of rewriting the draft statement, subject to the condition that the errata sheets—

"(1) cite the sources, authorities, and reasons that support the position of the agency; and

"(2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

"(b) SINGLE DOCUMENT.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

"(1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

"(2) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.

"(c) ADOPTION OF DOCUMENTS.—

"(1) AVOIDING DUPLICATION.—To prevent duplication of analyses and support expeditious and efficient decisions, the operating administrations of the Department of Transportation shall use adoption and incorporation by reference in accordance with this paragraph.

"(2) ADOPTION OF DOCUMENTS OF OTHER OPERATING ADMINISTRATIONS.—An operating administration or a secretarial office within the Department of Transportation may adopt a draft environmental impact statement, an environmental assessment, or a final environmental impact statement of another operating administration for the adopting operating administration's use when preparing an environmental assessment or final environmental impact statement for a project without recirculating the document for public review, if—

"(A) the adopting operating administration certifies that its proposed action is substantially the same as the project considered in the document to be adopted;

"(B) the other operating administration concurs with such decision; and

"(C) such actions are consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) INCORPORATION BY REFERENCE.—An operating administration or secretarial office within the Department of Transportation may incorporate by reference all or portions of a draft environmental impact statement, an environmental assessment, or a final environmental impact statement for the adopting operating administration's use when preparing an environmental assessment or final environmental impact statement for a project if—

"(A) the incorporated material is cited in the environmental assessment or final environmental impact statement and the contents of the incorporated material is briefly described;

"(B) the incorporated material is reasonably available for inspection by potentially interested persons within the time allowed for review and comment; and

"(C) the incorporated material does not include proprietary data that is not available for review and comment.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by inserting after the item relating to section 304 the following:

"304a. Accelerated decisionmaking in environmental reviews.".

SEC. 1317. ALIGNING FEDERAL ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—Title 49, United States Code, is amended by inserting after section 309 the following:

"§ 310. Aligning Federal environmental reviews

"(a) COORDINATED AND CONCURRENT ENVIRONMENTAL REVIEWS.—Not later than 1 year after the date of enactment of this section, the Department of Transportation, in coordination with the heads of Federal agencies likely to have substantive review or approval responsibilities under Federal law, shall develop a coordinated and concurrent environmental review and permitting process for transportation projects when initiating an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.; in this section referred to as 'NEPA').

"(b) CONTENTS.—The coordinated and concurrent environmental review and permitting process shall—

"(1) ensure that the Department and agencies of jurisdiction possess sufficient information early in the review process to determine a statement of a transportation project's purpose and need and range of alternatives for analysis that the lead agency and agencies of jurisdiction will rely on for concurrent environmental reviews and permitting decisions required for the proposed project;

"(2) achieve early concurrence or issue resolution during the NEPA scoping process on the Department of Transportation's statement of a project's purpose

and need, and during development of the environmental impact statement on the range of alternatives for analysis, that the lead agency and agencies of jurisdiction will rely on for concurrent environmental reviews and permitting decisions required for the proposed project absent circumstances that require reconsideration in order to meet an agency of jurisdiction's obligations under a statute or Executive order; and

"(3) achieve concurrence or issue resolution in an expedited manner if circumstances arise that require a reconsideration of the purpose and need or range of alternatives considered during any Federal agency's environmental or permitting review in order to meet an agency of jurisdiction's obligations under a statute or Executive order.

"(c) ENVIRONMENTAL CHECKLIST.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary of Transportation and Federal agencies of jurisdiction likely to have substantive review or approval responsibilities on transportation projects shall jointly develop a checklist to help project sponsors identify potential natural, cultural, and historic resources in the area of a proposed project.

"(2) PURPOSE.—The purpose of the checklist shall be to—

"(A) identify agencies of jurisdiction and cooperating agencies;

"(B) develop the information needed for the purpose and need and alternatives for analysis; and

"(C) improve interagency collaboration to help expedite the permitting process for the lead agency and agencies of jurisdiction.

"(d) INTERAGENCY COLLABORATION.—

"(1) IN GENERAL.—Consistent with Federal environmental statutes, the Secretary shall facilitate annual interagency collaboration sessions at the appropriate jurisdictional level to coordinate business plans and facilitate coordination of workload planning and workforce management.

"(2) PURPOSE OF COLLABORATION SESSIONS.—The interagency collaboration sessions shall ensure that agency staff is—

"(A) fully engaged;

"(B) utilizing the flexibility of existing regulations, policies, and guidance; and

"(C) identifying additional actions to facilitate high quality, efficient, and targeted environmental reviews and permitting decisions.

"(3) FOCUS OF COLLABORATION SESSIONS.—The interagency collaboration sessions, and the interagency collaborations generated by the sessions, shall focus on methods to—

"(A) work with State and local transportation entities to improve project planning, siting, and application quality; and

"(B) consult and coordinate with relevant stakeholders and Federal, tribal, State, and local representatives early in permitting processes.

"(e) PERFORMANCE MEASUREMENT.—Not later than 1 year after the date of enactment of this section, the Secretary, in coordination with relevant Federal agencies, shall establish a program to measure and report on progress towards aligning Federal reviews as outlined in this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by inserting after the item relating to section 309 the following:

"310. Aligning Federal environmental reviews.".

Subtitle D—Miscellaneous

SEC. 1401. TOLLING; HOV FACILITIES; INTERSTATE RECONSTRUCTION AND REHABILITATION.

(a) TOLLING.—Section 129(a) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B) by striking ", bridge, or tunnel" each place it appears;

(B) in subparagraph (C) by striking ", bridge, or tunnel" each place it appears;

(C) by striking subparagraph (G);

(D) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H); and

(E) in subparagraph (G) as redesignated—

(i) by inserting "(HOV)" after "high occupancy vehicle"; and

(ii) by inserting "under section 166 of this title" after "facility";

(2) in paragraph (3)(A)—

(A) by striking "shall use" and inserting "shall ensure that"; and

(B) by inserting "are used" after "toll facility" the second place it appears; and

(3) by striking paragraph (4) and redesignating paragraphs (5) through (10) as paragraphs (4) through (9), respectively.

(b) HOV FACILITIES.—Section 166 of title 23, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking the paragraph heading and inserting "**AUTHORITY OF PUBLIC AUTHORITIES**"; and

(B) by striking "State agency" and inserting "public authority";

(2) in subsection (b)—

(A) by striking "State agency" each place it appears and inserting "public authority";

(B) in paragraph (3)—

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

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

(iii) by inserting at the end the following:

"(C) provides equal access for all public transportation vehicles and over-the-road buses."; and

(C) in paragraph (5)—

(i) in subparagraph (A) by striking "2017" and inserting "2021"; and

(ii) in subparagraph (B) by striking "2017" and inserting "2021";

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—Notwithstanding section 301, tolls may be charged under paragraphs (4) and (5) of subsection (b), subject to the requirements of section 129.";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) by inserting after paragraph (2), as redesignated, the following:

"(3) EXEMPTION FROM TOLLS.—In levying tolls on a facility under this section, a public authority may designate classes of vehicles that are exempt from the tolls or charge different toll rates for different classes of vehicles, if equal rates are charged for all public transportation vehicles and over-the-road buses, whether publicly or privately owned.";

(4) in subsection (d)—

(A) by striking "State agency" each place it appears and inserting "public authority";

(B) in paragraph (1)—

(i) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(ii) by inserting after subparagraph (C) the following:

"(D) CONSULTATION OF MPO.—If the facility is on the Interstate System and located in a metropolitan planning area established in accordance with section 134, consulting with the metropolitan planning organization for the area concerning the placement and amount of tolls on the facility."; and

(iii) in subparagraph (F), as redesignated—

(I) by striking "State" the first place it appears and inserting "public authority"; and

(II) by striking "subparagraph (D)" and inserting "subparagraph (E)"; and

(5) in subsection (f)—

(A) in paragraph (4)(B)(iii) by striking "State agency" and inserting "public authority"; and

(B) by striking paragraph (5) and inserting after paragraph (4) the following:

"(5) OVER-THE-ROAD BUS.—The term 'over-the-road bus' means a vehicle as defined in section 301(5) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181(5)).

"(6) PUBLIC AUTHORITY.—The term 'public authority' as used with respect to a HOV facility, means a State, interstate compact of States, public entity designated by a State, or local government having jurisdiction over the operation of the facility.".

(c) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended—

(1) in paragraph (4)—

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

(B) in subparagraph (E) by striking the period and inserting "; and"; and
(C) by adding at the end the following:
"(F) the State has approved enabling legislation required for the project to proceed.";

(2) by redesignating paragraphs (6) through (8) as paragraphs (8) through (10), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) REQUIREMENTS FOR PROJECT COMPLETION.—

"(A) GENERAL TERM FOR EXPIRATION OF PROVISIONAL APPLICATION.—An application provisionally approved by the Secretary under this subsection shall expire 3 years after the date on which the application was provisionally approved if the State has not—

"(i) submitted a complete application to the Secretary that fully satisfies the eligibility criteria under paragraph (3) and the selection criteria under paragraph (4);

"(ii) completed the environmental review and permitting process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the pilot project; and

"(iii) executed a toll agreement with the Secretary.

"(B) EXCEPTIONS TO EXPIRATION.—Notwithstanding subparagraph (A), the Secretary may extend the provisional approval for not more than 1 additional year if the State demonstrates material progress toward implementation of the project as evidenced by—

"(i) substantial progress in completing the environmental review and permitting process for the pilot project under the National Environmental Policy Act of 1969;

"(ii) funding and financing commitments for the pilot project;

"(iii) expressions of support for the pilot project from State and local governments, community interests, and the public; and

"(iv) submission of a facility management plan pursuant to paragraph (3)(D).

"(C) CONDITIONS FOR PREVIOUSLY PROVISIONALLY APPROVED APPLICATIONS.—A State with a provisionally approved application for a pilot project as of the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015 shall have 1 year after such date of enactment to meet the requirements of subparagraph (A) or receive an extension from the Secretary under subparagraph (B), or the application will expire.

"(7) DEFINITION.—In this subsection, the term 'provisional approval' or 'provisionally approved' means the approval by the Secretary of a partial application under this subsection, including the reservation of a slot in the pilot program.".

(d) APPROVAL OF APPLICATIONS.—The Secretary may approve an application submitted under section 1604(c) of SAFETEA–LU (Public Law 109–59; 119 Stat. 1253) if the application, or any part of the application, was submitted before the deadline specified in section 1604(c)(8) of that Act.

SEC. 1402. PROHIBITION ON THE USE OF FUNDS FOR AUTOMATED TRAFFIC ENFORCEMENT.

(a) PROHIBITION.—Except as provided in subsection (b), for fiscal years 2016 through 2021, funds apportioned to a State under section 104(b)(3) of title 23, United States Code, may not be used to purchase, operate, or maintain an automated traffic enforcement system.

(b) EXCEPTION.—Subsection (a) does not apply to an automated traffic enforcement system located in a school zone.

(c) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this section, the term "automated traffic enforcement system" means any camera that captures an image of a vehicle for the purposes of traffic law enforcement.

SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Section 164(a)(4) of title 23, United States Code, is amended—

(1) in the matter preceding subparagraph (A) by inserting ", or a combination of State laws," after "a State law"; and

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

"(A) receive, for not less than 1 year—

"(i) a suspension of all driving privileges;

"(ii) a restriction on driving privileges that limits the individual to operating only motor vehicles with an ignition interlock system installed (allowing for limited exceptions for circumstances when the individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual); or

"(iii) a combination of both clauses (i) and (ii);".

(b) APPLICATION.—The amendments made by this section shall apply with respect to fiscal years beginning after the date of enactment of this Act.

SEC. 1404. HIGHWAY TRUST FUND TRANSPARENCY AND ACCOUNTABILITY.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (g) and inserting the following:

"(g) HIGHWAY TRUST FUND TRANSPARENCY AND ACCOUNTABILITY REPORTS.—

"(1) COMPILATION OF DATA.—The Secretary shall compile data in accordance with this subsection on the use of Federal-aid highway funds made available under this title.

"(2) REQUIREMENTS.—The Secretary shall ensure that the reports required under this subsection are made available in a user-friendly manner on the public Internet Web site of the Department and can be searched and downloaded by users of the Web site.

"(3) CONTENTS OF REPORTS.—

"(A) APPORTIONED AND ALLOCATED PROGRAMS.—On a semiannual basis, the Secretary shall make available a report on funding apportioned and allocated to the States under this title that describes—

"(i) the amount of funding obligated by each State, year-to-date, for the current fiscal year;

"(ii) the amount of funds remaining available for obligation by each State;

"(iii) changes in the obligated, unexpended balance for each State, year-to-date, during the current fiscal year, including the obligated, unexpended balance at the end of the preceding fiscal year and current fiscal year expenditures;

"(iv) the amount and program category of unobligated funding, year-to-date, available for expenditure at the discretion of the Secretary;

"(v) the rates of obligation on and off the National Highway System, year-to-date, for the current fiscal year of funds apportioned, allocated, or set aside under this section, according to—

"(I) program;

"(II) funding category or subcategory;

"(III) type of improvement;

"(IV) State; and

"(V) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area; and

"(vi) the amount of funds transferred by each State, year-to-date, for the current fiscal year between programs under section 126.

"(B) PROJECT DATA.—On an annual basis, the Secretary shall make available a report that, to the maximum extent possible, provides project-specific data describing—

"(i) for all projects funded under this title (excluding projects for which funds are transferred to agencies other than the Federal Highway Administration)—

"(I) the specific location of the project;

"(II) the total cost of the project;

"(III) the amount of Federal funding obligated for the project;

"(IV) the program or programs from which Federal funds have been obligated for the project;

"(V) the type of improvement being made; and

"(VI) the ownership of the highway or bridge; and

"(ii) for any project funded under this title (excluding projects for which funds are transferred to agencies other than the Federal Highway Administration) with an estimated total cost as of the start of construction in excess of $100,000,000, the data specified under clause (i) and additional data describing—

"(I) whether the project is located in an area of the State with a population of—

"(aa) less than 5,000 individuals;

"(bb) 5,000 or more individuals but less than 50,000 individuals;

"(cc) 50,000 or more individuals but less than 200,000 individuals; or

"(dd) 200,000 or more individuals;

"(II) the estimated cost of the project as of the start of project construction, or the revised cost estimate based on a description of

revisions to the scope of work or other factors affecting project cost other than cost overruns; and

"(III) the amount of non-Federal funds obligated for the project.".

(b) CONFORMING AMENDMENT.—Section 1503 of MAP–21 (23 U.S.C. 104 note; Public Law 112–141) is amended by striking subsection (c).

SEC. 1405. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) by striking paragraph (13) and inserting the following:

"(13) Raleigh-Norfolk Corridor from Raleigh, North Carolina, through Rocky Mount, Williamston, and Elizabeth City, North Carolina, to Norfolk, Virginia.";

(2) in paragraph (18)(D)—

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

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

(C) by adding at the end the following:

"(iv) include Texas State Highway 44 from United States Route 59 at Freer, Texas, to Texas State Highway 358.";

(3) by striking paragraph (68) and inserting the following:

"(68) The Washoe County Corridor and the Intermountain West Corridor, which shall generally follow—

"(A) for the Washoe County Corridor, along Interstate Route 580/United States Route 95/United States Route 95A from Reno, Nevada, to Las Vegas, Nevada; and

"(B) for the Intermountain West Corridor, from the vicinity of Las Vegas, Nevada, north along United States Route 95 terminating at Interstate Route 80."; and

(4) by adding at the end the following:

"(81) United States Route 117/Interstate Route 795 from United States Route 70 in Goldsboro, Wayne County, North Carolina, to Interstate Route 40 west of Faison, Sampson County, North Carolina.

"(82) United States Route 70 from its intersection with Interstate Route 40 in Garner, Wake County, North Carolina, to the Port at Morehead City, Carteret County, North Carolina.

"(83) The Sonoran Corridor along State Route 410 connecting Interstate Route 19 and Interstate Route 10 south of the Tucson International Airport.

"(84) The Central Texas Corridor commencing at the logical terminus of Interstate Route 10, generally following portions of United States Route 190 eastward, passing in the vicinity Fort Hood, Killeen, Belton, Temple, Bryan, College Station, Huntsville, Livingston, and Woodville, to the logical terminus of Texas Highway 63 at the Sabine River Bridge at Burrs Crossing.

"(85) Interstate Route 81 in New York from its intersection with Interstate Route 86 to the United States-Canadian border.".

(b) INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM.—Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) by inserting "subsection (c)(13)," after "subsection (c)(9),";

(2) by striking "subsections (c)(18)" and all that follows through "subsection (c)(36)" and inserting "subsection (c)(18), subsection (c)(20), subparagraphs (A) and (B)(i) of subsection (c)(26), subsection (c)(36)"; and

(3) by striking "and subsection (c)(57)" and inserting "subsection (c)(57), subsection (c)(68)(B), subsection (c)(81), subsection (c)(82), and subsection (c)(83)".

(c) DESIGNATION.—Section 1105(e)(5)(C)(i) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking the final sentence and inserting the following: "The routes referred to in subparagraphs (A) and (B)(i) of subsection (c)(26) and in subsection (c)(68)(B) are designated as Interstate Route I–11.".

(d) FUTURE INTERSTATE DESIGNATION.—Section 119(a) of the SAFETEA–LU Technical Corrections Act of 2008 is amended by striking "and, as a future Interstate Route 66 Spur, the Natcher Parkway in Owensboro, Kentucky" and inserting "between Henderson, Kentucky, and Owensboro, Kentucky, and, as a future Interstate Route 65 and 66 Spur, the William H. Natcher Parkway between Bowling Green, Kentucky, and Owensboro, Kentucky".

SEC. 1406. FLEXIBILITY FOR PROJECTS.

(a) AUTHORITY.—With respect to projects eligible for funding under title 23, United States Code, subject to subsection (b) and on request by a State, the Secretary may—

(1) exercise all existing flexibilities under and exceptions to—

(A) the requirements of title 23, United States Code; and

(B) other requirements administered by the Secretary, in whole or part; and

(2) otherwise provide additional flexibility or expedited processing with respect to the requirements described in paragraph (1).

(b) MAINTAINING PROTECTIONS.—Nothing in this section—

(1) waives the requirements of section 113 or 138 of title 23, United States Code;

(2) supersedes, amends, or modifies—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental law; or

(B) any requirement of title 23 or title 49, United States Code; or

(3) affects the responsibility of any Federal officer to comply with or enforce any law or requirement described in this subsection.

SEC. 1407. PRODUCTIVE AND TIMELY EXPENDITURE OF FUNDS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop guidance that encourages the use of programmatic approaches to project delivery, expedited and prudent procurement techniques, and other best practices to facilitate productive, effective, and timely expenditure of funds for projects eligible for funding under title 23, United States Code.

(b) IMPLEMENTATION.—The Secretary shall work with States to ensure that any guidance developed under subsection (a) is consistently implemented by States and the Federal Highway Administration to—

(1) avoid unnecessary delays in completing projects;

(2) minimize cost overruns; and

(3) ensure the effective use of Federal funding.

SEC. 1408. CONSOLIDATION OF PROGRAMS.

Section 1519(a) of MAP–21 (126 Stat. 574) is amended by striking "From administrative funds" and all that follows through "shall be made available" and inserting "For each of fiscal years 2016 through 2021, before making an apportionment under section 104(b)(3) of title 23, United States Code, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 of such title for the fiscal year, $3,500,000".

SEC. 1409. FEDERAL SHARE PAYABLE.

(a) INNOVATIVE PROJECT DELIVERY METHODS.—Section 120(c)(3)(A)(ii) of title 23, United States Code, is amended by inserting "engineering or design approaches," after "technologies,".

(b) EMERGENCY RELIEF.—Section 120(e)(2) of title 23, United States Code, is amended by striking "Federal land access transportation facilities," and inserting "other federally owned roads that are open to public travel,".

SEC. 1410. ELIMINATION OR MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.

(a) FUNDAMENTAL PROPERTIES OF ASPHALTS REPORT.—Section 6016(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2183) is repealed.

(b) EXPRESS LANES DEMONSTRATION PROGRAM REPORTS.—Section 1604(b)(7)(B) of SAFETEA–LU (23 U.S.C. 129 note) is repealed.

SEC. 1411. TECHNICAL CORRECTIONS.

(a) TITLE 23.—Title 23, United States Code, is amended as follows:

(1) Section 150(c)(3)(B) is amended by striking the semicolon at the end and inserting a period.

(2) Section 154(c) is amended—

(A) in paragraph (3)(A) by striking "transferred" and inserting "reserved"; and

(B) in paragraph (5)—

(i) in the matter preceding subparagraph (A) by inserting "or released" after "transferred"; and

(ii) in subparagraph (A) by striking "under section 104(b)(l)" and inserting "under section 104(b)(1)".

(3) Section 164(b) is amended—

(A) in paragraph (3)(A) by striking "transferred" and inserting "reserved"; and

(B) in paragraph (5) by inserting "or released" after "transferred".

(b) MAP–21.—Effective as of July 6, 2012, and as if included therein as enacted, MAP–21 (Public Law 112–141) is amended as follows:

(1) Section 1109(a)(2) (126 Stat. 444) is amended by striking "fourth" and inserting "fifth".

(2) Section 1203 (126 Stat. 524) is amended—

(A) in subsection (a) by striking "Section 150 of title 23, United States Code, is amended to read as follows" and inserting "Title 23, United States Code, is amended by inserting after section 149 the following"; and

(B) in subsection (b) by striking "by striking the item relating to section 150 and inserting" and inserting "by inserting after the item relating to section 149".

(3) Section 1313(a)(1) (126 Stat. 545) is amended to read as follows:

"(1) in the section heading by striking '**pilot**'; and".

(4) Section 1314(b) (126 Stat. 549) is amended—

(A) by inserting "chapter 3 of" after "analysis for"; and

(B) by inserting a period at the end of the matter proposed to be inserted.

(5) Section 1519(c) (126 Stat. 575) is amended—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) through (12) as paragraphs (3) through (11), respectively;

(C) in paragraph (7), as redesignated by subparagraph (B) of this paragraph—

(i) by striking the period at the end of the matter proposed to be struck; and

(ii) by adding a period at the end; and

(D) in paragraph (8)(A)(i)(I), as redesignated by subparagraph (B) of this paragraph, by striking "than rail" in the matter proposed to be struck and inserting "than on rail".

(6) Section 1528 is amended—

(A) in subsection (b) by inserting "(or a lower percentage if so requested by a State with respect to a project)" after "100 percent"; and

(B) in subsection (c) by inserting "(or a lower percentage if so requested by a State with respect to a project)" after "100 percent".

SEC. 1412. SAFETY FOR USERS.

(a) IN GENERAL.—The Secretary shall encourage each State and metropolitan planning organization to adopt standards for the design of Federal surface transportation projects that provide for the safe and adequate accommodation (as determined by the State) in all phases of project planning, development, and operation, of all users of the surface transportation network, including motorized and nonmotorized users.

(b) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall make available to the public a report cataloging examples of State law or State transportation policy that provides for the safe and adequate accommodation, in all phases of project planning, development, and operation of all users of the surface transportation network.

(c) BEST PRACTICES.—Based on the report required under subsection (b), the Secretary shall identify and disseminate examples of best practices where States have adopted measures that have successfully provided for the safe and adequate accommodation of all users of the transportation network in all phases of project development and operation.

SEC. 1413. DESIGN STANDARDS.

(a) IN GENERAL.—Section 109 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "may take into account" and inserting "shall consider";

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

(iii) by redesignating subparagraph (C) as subparagraph (D); and

(iv) by inserting after subparagraph (B) the following:

"(C) cost savings by utilizing flexibility that exists in current design guidance and regulations; and"; and

(B) in paragraph (2)—

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

(ii) by redesignating subparagraph (D) as subparagraph (F); and

(iii) by inserting after subparagraph (C) the following:

"(D) the publication entitled 'Highway Safety Manual' of the American Association of State Highway and Transportation Officials;

"(E) the publication entitled 'Urban Street Design Guide' of the National Association of City Transportation Officials; and"; and

(2) in subsection (f) by inserting "pedestrian walkways," after "bikeways,".

(b) DESIGN STANDARD FLEXIBILITY.—Notwithstanding section 109(o) of title 23, United States Code, a State may allow a local jurisdiction to use a roadway design publication that is different from the roadway design publication used by the State

in which the local jurisdiction is located for the design of a project on a roadway under the ownership of the local jurisdiction (other than a highway on the Interstate System) if—

(1) the local jurisdiction is a direct recipient of Federal funds for the project;

(2) the roadway design publication—

(A) is recognized by the Federal Highway Administration; and

(B) is adopted by the local jurisdiction; and

(3) the design complies with all other applicable Federal laws.

SEC. 1414. RESERVE FUND.

(a) LIMITATION.—

(1) IN GENERAL.—Notwithstanding funding, authorizations of appropriations, and contract authority described in sections 1101, 1102, 3017, 4001, 5101, and 6002 of this Act, including the amendments made by such sections, sections 125 and 147 of title 23, United States Code, and section 5338(a) of title 49, United States Code, no funding, authorization of appropriations, and contract authority described in those sections for fiscal years 2019 through 2021 shall exist unless and only to the extent that a subsequent Act of Congress causes additional monies to be deposited in the Highway Trust Fund.

(2) ADMINISTRATIVE EXPENSES.—The limitation on funds provided in paragraph (1) shall not apply to—

(A) administrative expenses of the Federal Highway Administration under sections 104(a) and 608(a)(6) of title 23, United States Code;

(B) administrative expenses of the National Highway Traffic Safety Administration under section 4001(a)(6) of this Act;

(C) administrative expenses of the Federal Motor Carrier Safety Administration under section 5103 of this Act; and

(D) administrative expenses of the Federal Transit Administration under section 5338(h) of title 49, United States Code.

(b) ADJUSTMENTS TO CONTRACT AUTHORITY.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 104 the following:

"§ 105. Adjustments to contract authority

"(a) CALCULATION.—

"(1) IN GENERAL.—The President shall include in each of the fiscal year 2017 through 2021 budget submissions to Congress under section 1105(a) of title 31, for each of the Highway Account and the Mass Transit Account, a calculation of the difference between—

"(A) the actual level of monies deposited in that account for the most recently completed fiscal year; and

"(B) the estimated level of receipts for that account for the most recently completed fiscal year, as specified in paragraph (2).

"(2) ESTIMATE.—The estimated level of receipts specified in this paragraph are—

"(A) for the Highway Account—

"(i) for fiscal year 2015, $35,067,000,000;

"(ii) for fiscal year 2016, $35,498,000,000;

"(iii) for fiscal year 2017, $35,879,000,000;

"(iv) for fiscal year 2018, $36,084,000,000; and

"(v) for fiscal year 2019, $36,117,000,000; and

"(B) for the Mass Transit Account—

"(i) for fiscal year 2015, $4,994,000,000;

"(ii) for fiscal year 2016, $5,020,000,000;

"(iii) for fiscal year 2017, $5,024,000,000;

"(iv) for fiscal year 2018, $5,011,000,000; and

"(v) for fiscal year 2019, $4,981,000,000.

"(b) ADJUSTMENTS TO CONTRACT AUTHORITY.—

"(1) ADDITIONAL AMOUNTS.—If the difference determined in a budget submission under subsection (a) for a fiscal year for the Highway Account or the Mass Transit Account is greater than zero, the Secretary shall on October 1 of the budget year of that submission—

"(A) make available for programs authorized from such account for the budget year a total amount equal to—

"(i) the amount otherwise authorized to be appropriated for such programs for such budget year; plus

"(ii) an amount equal to such difference; and

"(B) distribute the additional amount under subparagraph (A)(ii) to each of such programs in accordance with subsection (c).

"(2) REDUCTION.—If the difference determined in a budget submission under subsection (a) for a fiscal year for the Highway Account or the Mass Transit Account is less than zero, the Secretary shall on October 1 of the budget year of that submission—

"(A) make available for programs authorized from such account for the budget year a total amount equal to—

"(i) the amount otherwise authorized to be appropriated for such programs for such budget year; minus

"(ii) an amount equal to such difference; and

"(B) apply the total adjustment under subparagraph (A)(ii) to each of such programs in accordance with subsection (c).

"(c) DISTRIBUTION OF ADJUSTMENT AMONG PROGRAMS.—

"(1) IN GENERAL.—In making an adjustment for the Highway Account or the Mass Transit Account for a budget year under subsection (b), the Secretary shall—

"(A) determine the ratio that—

"(i) the amount authorized to be appropriated for a program from the account for the budget year; bears to

"(ii) the total amount authorized to be appropriated for such budget year for all programs under such account;

"(B) multiply the ratio determined under subparagraph (A) by the applicable difference calculated under subsection (a); and

"(C) adjust the amount that the Secretary would otherwise have allocated for the program for such budget year by the amount calculated under subparagraph (B).

"(2) FORMULA PROGRAMS.—For a program for which funds are distributed by formula, the Secretary shall add or subtract the adjustment to the amount authorized for the program but for this section and make available the adjusted program amount for such program in accordance with such formula.

"(3) AVAILABILITY FOR OBLIGATION.—Adjusted amounts under this subsection shall be available for obligation and administered in the same manner as other amounts made available for the program for which the amount is adjusted.

"(d) EXCLUSION OF EMERGENCY RELIEF PROGRAM AND COVERED ADMINISTRATIVE EXPENSES.—The Secretary shall exclude the emergency relief program under section 125 and covered administrative expenses from—

"(1) an adjustment of funding under subsection (c)(1); and

"(2) any calculation under subsection (b) or (c) related to such an adjustment.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the appropriate account or accounts of the Highway Trust Fund an amount equal to the amounts calculated under subsection (a) for each of fiscal years 2017 through 2021.

"(f) REVISION TO OBLIGATION LIMITATIONS.—

"(1) IN GENERAL.—If the Secretary makes an adjustment under subsection (b) for a fiscal year to an amount subject to a limitation on obligations imposed by section 1102 or 3017 of the Surface Transportation Reauthorization and Reform Act of 2015—

"(A) such limitation on obligations for such fiscal year shall be revised by an amount equal to such adjustment; and

"(B) the Secretary shall distribute such limitation on obligations, as revised under subparagraph (A), in accordance with such sections.

"(2) EXCLUSION OF COVERED ADMINISTRATIVE EXPENSES.—The Secretary shall exclude covered administrative expenses from—

"(A) any calculation relating to a revision of a limitation on obligations under paragraph (1)(A); and

"(B) any distribution of a revised limitation on obligations under paragraph (1)(B).

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

"(1) BUDGET YEAR.—The term 'budget year' means the fiscal year for which a budget submission referenced in subsection (a)(1) is submitted.

"(2) COVERED ADMINISTRATIVE EXPENSES.—The term 'covered administrative expenses' means the administrative expenses of—

"(A) the Federal Highway Administration, as authorized under section 104(a);

"(B) the National Highway Traffic Safety Administration, as authorized under section 4001(a)(6) of the Surface Transportation Reauthorization and Reform Act of 2015; and

"(C) the Federal Motor Carrier Safety Administration, as authorized under section 31110 of title 49.

"(3) HIGHWAY ACCOUNT.—The term 'Highway Account' means the portion of the Highway Trust Fund that is not the Mass Transit Account.

"(4) MASS TRANSIT ACCOUNT.—The term 'Mass Transit Account' means the Mass Transit Account of the Highway Trust Fund established under section 9503(e)(1) of the Internal Revenue Code of 1986.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 104 the following:

"105. Adjustments to contract authority.".

SEC. 1415. ADJUSTMENTS.

(a) IN GENERAL.—On July 1, 2018, of the unobligated balances of funds apportioned among the States under chapter 1 of title 23, United States Code, a total of $6,000,000,000 is permanently rescinded.

(b) EXCLUSIONS FROM RESCISSION.—The rescission under subsection (a) shall not apply to funds distributed in accordance with—

(1) sections 104(b)(3) and 130(f) of title 23, United States Code;

(2) sections 133(d)(1)(A) of such title;

(3) the first sentence of section 133(d)(3)(A) of such title, as in effect on the day before the date of enactment of MAP–21 (Public Law 112–141);

(4) sections 133(d)(1) and 163 of such title, as in effect on the day before the date of enactment of SAFETEA–LU (Public Law 109–59); and

(5) section 104(b)(5) of such title, as in effect on the day before the date of enactment of MAP–21 (Public Law 112–141).

(c) DISTRIBUTION AMONG STATES.—The amount to be rescinded under this section from a State shall be determined by multiplying the total amount of the rescission in subsection (a) by the ratio that—

(1) the unobligated balances subject to the rescission as of September 30, 2017, for the State; bears to

(2) the unobligated balances subject to the rescission as of September 30, 2017, for all States.

(d) DISTRIBUTION WITHIN EACH STATE.—The amount to be rescinded under this section from each program to which the rescission applies within a State shall be determined by multiplying the required rescission amount calculated under subsection (c) for such State by the ratio that—

(1) the unobligated balance as of September 30, 2017, for such program in such State; bears to

(2) the unobligated balances as of September 30, 2017, for all programs to which the rescission applies in such State.

SEC. 1416. NATIONAL ELECTRIC VEHICLE CHARGING, HYDROGEN, AND NATURAL GAS FUELING CORRIDORS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 150 the following:

"§ 151. National electric vehicle charging, hydrogen, and natural gas fueling corridors

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, the Secretary shall designate national electric vehicle charging, hydrogen, and natural gas fueling corridors that identify the near- and long-term need for, and location of, electric vehicle charging infrastructure, hydrogen infrastructure, and natural gas fueling infrastructure at strategic locations along major national highways to improve the mobility of passenger and commercial vehicles that employ electric, hydrogen fuel cell, and natural gas fueling technologies across the United States.

"(b) DESIGNATION OF CORRIDORS.—In designating the corridors under subsection (a), the Secretary shall—

"(1) solicit nominations from State and local officials for facilities to be included in the corridors;

"(2) incorporate existing electric vehicle charging, hydrogen fueling stations, and natural gas fueling corridors designated by a State or group of States; and

"(3) consider the demand for, and location of, existing electric vehicle charging, hydrogen fueling stations, and natural gas fueling infrastructure.

"(c) STAKEHOLDERS.—In designating corridors under subsection (a), the Secretary shall involve, on a voluntary basis, stakeholders that include—

"(1) the heads of other Federal agencies;

"(2) State and local officials;

"(3) representatives of—

"(A) energy utilities;

"(B) the electric, fuel cell electric, and natural gas vehicle industries;

"(C) the freight and shipping industry;
"(D) clean technology firms;
"(E) the hospitality industry;
"(F) the restaurant industry;
"(G) highway rest stop vendors; and
"(H) industrial gas and hydrogen manufacturers; and
"(4) such other stakeholders as the Secretary determines to be necessary.

"(d) REDESIGNATION.—Not later than 5 years after the date of establishment of the corridors under subsection (a), and every 5 years thereafter, the Secretary shall update and redesignate the corridors.

"(e) REPORT.—During designation and redesignation of the corridors under this section, the Secretary shall issue a report that—

"(1) identifies electric vehicle charging, hydrogen infrastructure, and natural gas fueling infrastructure and standardization needs for electricity providers, industrial gas providers, natural gas providers, infrastructure providers, vehicle manufacturers, electricity purchasers, and natural gas purchasers; and

"(2) establishes an aspirational goal of achieving strategic deployment of electric vehicle charging, hydrogen infrastructure, and natural gas fueling infrastructure in those corridors by the end of fiscal year 2021.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 150 the following:

"151. National electric vehicle charging, hydrogen, and natural gas fueling corridors.".

SEC. 1417. FERRIES.

Section 147 of title 23, United States Code, is amended by adding at the end the following:

"(h) REDISTRIBUTION OF UNOBLIGATED AMOUNTS.—The Secretary shall—

"(1) withdraw amounts allocated to eligible entities under this section that remain unobligated by the end of the third fiscal year following the fiscal year for which the amounts were allocated; and

"(2) in the fiscal year beginning after a fiscal year in which a withdrawal is made under paragraph (1), redistribute the funds withdrawn, in accordance with the formula specified under subsection (d), among eligible entities with respect to which no amounts were withdrawn under paragraph (1).".

SEC. 1418. STUDY ON PERFORMANCE OF BRIDGES.

(a) IN GENERAL.—Subject to subsection (c), the Administrator of the Federal Highway Administration shall commission the Transportation Research Board of the National Academy of Sciences to conduct a study on the performance of bridges that are at least 15 years old and received funding under the innovative bridge research and construction program (in this section referred to as the "program") under section 503(b) of title 23, United States Code (as in effect on the day before the date of enactment of SAFETEA–LU (Public Law 109–59) in meeting the goals of that program, which included—

(1) the development of new, cost-effective innovative material highway bridge applications;

(2) the reduction of maintenance costs and lifecycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

(3) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

(4) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures;

(5) the development of cost-effective and innovative techniques to separate vehicle and pedestrian traffic from railroad traffic;

(6) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges; and

(7) the development of new nondestructive bridge evaluation technologies and techniques.

(b) CONTENTS.—The study commissioned under subsection (a) shall include—

(1) an analysis of the performance of bridges that received funding under the program in meeting the goals described in paragraphs (1) through (7) of subsection (a);

(2) an analysis of the utility, compared to conventional materials and technologies, of each of the innovative materials and technologies used in projects for bridges under the program in meeting the needs of the United States in 2015 and in the future for a sustainable and low lifecycle cost transportation system;

(3) recommendations to Congress on how the installed and lifecycle costs of bridges could be reduced through the use of innovative materials and technologies, including, as appropriate, any changes in the design and construction of bridges needed to maximize the cost reductions; and

(4) a summary of any additional research that may be needed to further evaluate innovative approaches to reducing the installed and lifecycle costs of highway bridges.

(c) PUBLIC COMMENT.—Before commissioning the study under subsection (a), the Administrator shall provide an opportunity for public comment on the study proposal.

(d) DATA FROM STATES.—Each State that received funds under the program shall provide to the Transportation Research Board any relevant data needed to carry out the study commissioned under subsection (a).

(e) DEADLINE.—The Administrator shall submit to Congress a report on the results of the study commissioned under subsection (a) not later than 3 years after the date of enactment of this Act.

SEC. 1419. RELINQUISHMENT OF PARK-AND-RIDE LOT FACILITIES.

A State transportation agency may relinquish park-and-ride lot facilities or portions of park-and-ride lot facilities to a local government agency for highway purposes if authorized to do so under State law if the agreement providing for the relinquishment provides that—

(1) rights-of-way on the Interstate System will remain available for future highway improvements; and

(2) modifications to the facilities that could impair the highway or interfere with the free and safe flow of traffic are subject to the approval of the Secretary.

SEC. 1420. PILOT PROGRAM.

(a) IN GENERAL.—The Secretary may establish a pilot program that allows a State to utilize innovative approaches to maintain the right-of-way of Federal-aid highways within such State.

(b) LIMITATION.—A pilot program established under subsection (a) shall—

(1) terminate after not more than 6 years;

(2) include not more than 5 States; and

(3) be subject to guidelines published by the Secretary.

(c) REPORT.—If the Secretary establishes a pilot program under subsection (a), the Secretary shall, not more than 1 year after the completion of the pilot program, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the pilot program.

SEC. 1421. INNOVATIVE PROJECT DELIVERY EXAMPLES.

Section 120(c)(3)(B) of title 23, United States Code, is amended—

(1) in clause (iv) by striking "or" at the end;

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following:

"(v) innovative pavement materials that have a demonstrated life cycle of 75 or more years, are manufactured with reduced greenhouse gas emissions, and reduce construction-related congestion by rapidly curing; or".

SEC. 1422. ADMINISTRATIVE PROVISIONS TO ENCOURAGE POLLINATOR HABITAT AND FORAGE ON TRANSPORTATION RIGHTS-OF-WAY.

(a) IN GENERAL.—Section 319 of title 23, United States Code, is amended—

(1) in subsection (a) by inserting "(including the enhancement of habitat and forage for pollinators)" before "adjacent"; and

(2) by adding at the end the following:

"(c) ENCOURAGEMENT OF POLLINATOR HABITAT AND FORAGE DEVELOPMENT AND PROTECTION ON TRANSPORTATION RIGHTS-OF-WAY.—In carrying out any program administered by the Secretary under this title, the Secretary shall, in conjunction with willing States, as appropriate—

"(1) encourage integrated vegetation management practices on roadsides and other transportation rights-of-way, including reduced mowing; and

"(2) encourage the development of habitat and forage for Monarch butterflies, other native pollinators, and honey bees through plantings of native forbs and grasses, including noninvasive, native milkweed species that can serve as migratory way stations for butterflies and facilitate migrations of other pollinators.".

(b) PROVISION OF HABITAT, FORAGE, AND MIGRATORY WAY STATIONS FOR MONARCH BUTTERFLIES, OTHER NATIVE POLLINATORS, AND HONEY BEES.—Section 329(a)(1) of title 23, United States Code, is amended by inserting "provision of habi-

tat, forage, and migratory way stations for Monarch butterflies, other native pollinators, and honey bees," before "and aesthetic enhancement".

SEC. 1423. MILK PRODUCTS.

Section 127(a) of title 23, United States Code, is amended by adding at the end the following:

"(13) MILK PRODUCTS.—A vehicle carrying fluid milk products shall be considered a load that cannot be easily dismantled or divided.".

SEC. 1424. INTERSTATE WEIGHT LIMITS FOR EMERGENCY VEHICLES.

Section 127(a) of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(14) EMERGENCY VEHICLES.—

"(A) IN GENERAL.—With respect to an emergency vehicle, the following weight limits shall apply in lieu of the maximum and minimum weight limits specified in this subsection:

"(i) 24,000 pounds on a single steering axle.

"(ii) 33,500 pounds on a single drive axle.

"(iii) 62,000 pounds on a tandem axle.

"(iv) A maximum gross vehicle weight of 86,000 pounds.

"(B) EMERGENCY VEHICLE DEFINED.—In this paragraph, the term 'emergency vehicle' means a vehicle designed—

"(i) to be used under emergency conditions to transport personnel and equipment; and

"(ii) to support the suppression of fires and mitigation of other hazardous situations.".

SEC. 1425. VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM.

Section 127 of title 23, United States Code, is amended by adding at the end the following:

"(m) COVERED HEAVY-DUTY TOW AND RECOVERY VEHICLES.—

"(1) IN GENERAL.—The vehicle weight limitations set forth in this section do not apply to a covered heavy-duty tow and recovery vehicle.

"(2) COVERED HEAVY-DUTY TOW AND RECOVERY VEHICLE DEFINED.—In this subsection, the term 'covered heavy-duty tow and recovery vehicle' means a vehicle that—

"(A) is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and

"(B) has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.".

SEC. 1426. NEW NATIONAL GOAL, PERFORMANCE MEASURE, AND PERFORMANCE TARGET.

(a) NATIONAL GOAL.—Section 150(b) of title 23, United States Code, is amended by adding at the end the following:

"(8) INTEGRATED ECONOMIC DEVELOPMENT.—To improve road conditions in economically distressed urban communities and increase access to jobs, markets, and economic opportunities for people who live in such communities.".

(b) PERFORMANCE MEASURE.—Section 150(c) of such title is amended by adding at the end the following:

"(7) INTEGRATED ECONOMIC DEVELOPMENT.—The Secretary shall establish measures for States to use to assess the conditions, accessibility, and reliability of roads in economically distressed urban communities.".

(c) PERFORMANCE TARGET.—Section 150(d)(1) of such title is amended by striking "and (6)" and inserting "(6), and (7)".

SEC. 1427. SERVICE CLUB, CHARITABLE ASSOCIATION, OR RELIGIOUS SERVICE SIGNS.

Notwithstanding section 131 of title 23, United States Code, and part 750 of title 23, Code of Federal Regulations (or successor regulations), a State may allow the maintenance of a sign of a service club, charitable association, or religious service that was erected as of the date of enactment of this Act and the area of which is less than or equal to 32 square feet, if the State notifies the Federal Highway Administration.

SEC. 1428. WORK ZONE AND GUARD RAIL SAFETY TRAINING.

(a) IN GENERAL.—Section 1409 of SAFETEA–LU (23 U.S.C. 401 note) is amended—

(1) by striking the section heading and inserting "**WORK ZONE AND GUARD RAIL SAFETY TRAINING**"; and

(2) in subsection (b) by adding at the end the following:

"(4) Development, updating, and delivery of training courses on guard rail installation, maintenance, and inspection.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by striking the item relating to section 1409 and inserting the following:

"Sec. 1409. Work zone and guard rail safety training.".

SEC. 1429. MOTORCYCLIST ADVISORY COUNCIL.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Federal Highway Administration, and in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

(1) barrier design;

(2) road design, construction, and maintenance practices; and

(3) the architecture and implementation of intelligent transportation system technologies.

(b) COMPOSITION.—The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

(1) at least—

(A) 1 member recommended by a national motorcyclist association;

(B) 1 member recommended by a national motorcycle riders foundation;

(C) 1 representative of the National Association of State Motorcycle Safety Administrators;

(D) 2 members of State motorcyclists' organizations;

(E) 1 member recommended by a national organization that represents the builders of highway infrastructure;

(F) 1 member recommended by a national association that represents the traffic safety systems industry; and

(G) 1 member of a national safety organization; and

(2) at least 1, but not more than 2, motorcyclists who are traffic system design engineers or State transportation department officials.

SEC. 1430. HIGHWAY WORK ZONES.

It is the sense of the House of Representatives that the Federal Highway Administration should—

(1) do all within its power to protect workers in highway work zones; and

(2) move rapidly to finalize regulations, as directed in section 1405 of MAP–21 (126 Stat. 560), to protect the lives and safety of construction workers in highway work zones from vehicle intrusions.

TITLE II—INNOVATIVE PROJECT FINANCE

SEC. 2001. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1998 AMENDMENTS.

(a) DEFINITIONS.—

(1) MASTER CREDIT AGREEMENT.—Section 601(a)(10) of title 23, United States Code, is amended to read as follows:

"(10) MASTER CREDIT AGREEMENT.—The term 'master credit agreement' means a conditional agreement to extend credit assistance for a program of related projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency prior to the Secretary entering into such master credit agreement) under section 602(b)(2)(A), or for a single project covered under section 602(b)(2)(B) that does not provide for a current obligation of Federal funds, and that would—

"(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to the availability of future funds being made available to carry out this chapter and subject to the satisfaction of all the conditions for the provision of credit assistance under this chapter, including section 603(b)(1);

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

"(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the repayment of the secured loans or secured Federal credit instruments;

"(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

"(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(ii) compliance with such other requirements as are specified in this chapter, including sections 602(c) and 603(b)(1); and

"(iii) the availability of funds to carry out this chapter; and

"(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 3 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.".

(2) RURAL INFRASTRUCTURE PROJECT.—Section 601(a)(15) of title 23, United States Code, is amended to read as follows:

"(15) RURAL INFRASTRUCTURE PROJECT.—The term 'rural infrastructure project' means a surface transportation infrastructure project located outside of a Census-Bureau-defined urbanized area.".

(b) MASTER CREDIT AGREEMENTS.—Section 602(b)(2) of title 23, United States Code is amended to read as follows:

"(2) MASTER CREDIT AGREEMENTS.—

"(A) PROGRAM OF RELATED PROJECTS.—The Secretary may enter into a master credit agreement for a program of related projects secured by a common security pledge on terms acceptable to the Secretary.

"(B) ADEQUATE FUNDING NOT AVAILABLE.—If the Secretary fully obligates funding to eligible projects in a fiscal year, and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait to execute a credit instrument until the fiscal year during which additional funds are available to receive credit assistance.".

(c) ELIGIBLE PROJECT COSTS.—Section 602(a)(5) of title 23, United States Code, is amended—

(1) in subparagraph (A) by inserting "and (C)" after "(B)"; and

(2) by adding at the end the following:

"(C) LOCAL INFRASTRUCTURE PROJECTS.—Eligible project costs shall be reasonably anticipated to equal or exceed $10,000,000 in the case of a project or program of projects—

"(i) in which the applicant is a local government, public authority, or instrumentality of local government;

"(ii) located on a facility owned by a local government; or

"(iii) for which the Secretary determines that a local government is substantially involved in the development of the project.".

(d) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—Section 603(a)(2) of title 23, United States Code, is amended to read as follows:

"(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B)—

"(A) if the maturity of such interim construction financing is later than 1 year after the substantial completion of the project; and

"(B) later than 1 year after the date of substantial completion of the project.".

(e) FUNDING.—Section 608(a) of title 23, United States Code, is amended—

(1) in paragraph (4)—

(A) in subparagraph (A) by striking "Beginning in fiscal year 2014, on April 1 of each fiscal year" and inserting "Beginning in fiscal year 2016, on August 1 of each fiscal year"; and

(B) by adding at the end the following:

"(D) LIMITATIONS.—The Secretary may not carry out a redistribution under this paragraph—

"(i) for any fiscal year in which such redistribution would adversely impact the receipt of credit assistance by a qualified project within such fiscal year; or

"(ii) if the budget authority determined to be necessary to cover all requests for credit assistance pending before the Department of Transportation on August 1 would reduce the uncommitted balance of funds below the threshold established in subparagraph (A).'"; and

(2) by striking paragraph (6) and inserting the following:

"(6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out this chapter, the Secretary may use not more than $5,000,000 for fiscal year 2016, $5,150,000 for fiscal year 2017, $5,304,500 for fiscal year 2018, $5,463,500 for fiscal year 2019, $5,627,500 for fiscal year 2020, and $5,760,500 for fiscal year 2021 for the administration of this chapter.".

SEC. 2002. STATE INFRASTRUCTURE BANK PROGRAM.

Section 610 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1) by striking subparagraph (A) and inserting the following:

"(A) 10 percent of the funds apportioned to the State for each of fiscal years 2016 through 2021 under each of sections 104(b)(1) and 104(b)(2); and";

(B) in paragraph (2) by striking "fiscal years 2005 through 2009" and inserting "fiscal years 2016 through 2021";

(C) in paragraph (3) by striking "fiscal years 2005 through 2009" and inserting "fiscal years 2016 through 2021"; and

(D) in paragraph (5) by striking "section 133(d)(3)" and inserting "section 133(d)(1)(A)(i)"; and

(2) in subsection (k) by striking "fiscal years 2005 through 2009" and inserting "fiscal years 2016 through 2021".

SEC. 2003. AVAILABILITY PAYMENT CONCESSION MODEL.

(a) PAYMENT TO STATES FOR CONSTRUCTION.—Section 121(a) of title 23, United States Code, is amended by inserting "(including payments made pursuant to a long-term concession agreement, such as availability payments)" after "a project".

(b) PROJECT APPROVAL AND OVERSIGHT.—Section 106(b)(1) of title 23, United States Code, is amended by inserting "(including payments made pursuant to a long-term concession agreement, such as availability payments)" after "construction of the project".

TITLE III—PUBLIC TRANSPORTATION

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Public Transportation Act of 2015".

SEC. 3002. DEFINITIONS.

Section 5302 of title 49, United States Code, is amended—

(1) in paragraph (1)(C) by striking "landscaping and"; and

(2) by adding at the end the following:

"(24) VALUE CAPTURE.—The term 'value capture' means recovering the increased property value to property located near public transportation resulting from investments in public transportation.

"(25) BASE-MODEL BUS.—The term 'base-model bus' means a heavy-duty public transportation bus manufactured to meet, but not exceed, transit-specific minimum performance criteria developed by the Secretary.".

SEC. 3003. METROPOLITAN AND STATEWIDE TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 5303 of title 49, United States Code, is amended—

(1) in subsection (c)(2) by striking "and bicycle transportation facilities" and inserting ", bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities";

(2) in subsection (d)—

(A) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) REPRESENTATION.—

"(A) IN GENERAL.—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

"(B) PUBLIC TRANSPORTATION REPRESENTATIVE.—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

"(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).."; and

(C) in paragraph (5), as so redesignated, by striking "paragraph (5)" and inserting "paragraph (6)";

(3) in subsection (e)(4)(B) by striking "subsection (d)(5)" and inserting "subsection (d)(6)";

(4) in subsection (g)(3)(A) by inserting "tourism, natural disaster risk reduction," after "economic development,";

(5) in subsection (h)(1)—

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

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

(C) by adding at the end the following:

"(I) improve the resilience and reliability of the transportation system.";

(6) in subsection (i)—

(A) in paragraph (2)(A)(i) by striking "transit" and inserting "public transportation facilities, intercity bus facilities";

(B) in paragraph (6)(A)—

(i) by inserting "public ports," before "freight shippers,"; and

(ii) by inserting "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)" after "private providers of transportation"; and

(C) in paragraph (8) by striking "paragraph (2)(C)" each place it appears and inserting "paragraph (2)(E)";

(7) in subsection (k)(3)—

(A) in subparagraph (A) by inserting "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects," after "reduction"; and

(B) by adding at the end the following:

"(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization with a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

"(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

"(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

"(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

"(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and non-profit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.";

(8) in subsection (l)—

(A) by adding a period at the end of paragraph (1); and

(B) in paragraph (2)(D) by striking "of less than 200,000" and inserting "with a population of 200,000 or less"; and

(9) in subsection (p) by striking "Funds set aside under section 104(f)" and inserting "Funds apportioned under section 104(b)(5)".

(b) STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.—Section 5304 of title 49, United States Code, is amended—

(1) in subsection (a)(2) by striking "and bicycle transportation facilities" and inserting ", bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities";

(2) in subsection (d)—

(A) in paragraph (1)—

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

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

(iii) by adding at the end the following:

"(I) improve the resilience and reliability of the transportation system."; and

(B) in paragraph (2)—

(i) in subparagraph (B)(ii) by striking "urbanized"; and

(ii) in subparagraph (C) by striking "urbanized"; and

(3) in subsection (f)(3)(A)(ii)—

(A) by inserting "public ports," before "freight shippers,"; and

(B) by inserting "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)" after "private providers of transportation".

SEC. 3004. URBANIZED AREA FORMULA GRANTS.

Section 5307 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2) (as so redesignated) the following:

"(1) RECIPIENT DEFINED.—In this section, the term 'recipient' means a designated recipient, State, or local governmental authority that receives a grant under this section directly from the Government.";

(C) in paragraph (3) (as so redesignated) by inserting "or general public demand response service" before "during" each place it appears; and

(D) by adding at the end the following:

"(4) EXCEPTION TO THE SPECIAL RULE.—Notwithstanding paragraph (3), if a public transportation system described in such paragraph executes a written agreement with 1 or more other public transportation systems to allocate funds under this subsection, other than by measuring vehicle revenue hours, each of the public transportation systems to the agreement may follow the terms of such agreement without regard to the percentages or the measured vehicle revenue hours referred to in such paragraph."; and

(2) in subsection (c)(1)(K)(i) by striking "1 percent" and inserting "one-half of 1 percent".

SEC. 3005. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.

Section 5309 of title 49, United States Code, is amended—

(1) in subsection (a)(6)—

(A) in subparagraph (A) by inserting ", small start projects," after "new fixed guideway capital projects"; and

(B) by striking subparagraph (B) and inserting the following:

"(B) 2 or more projects that are any combination of new fixed guideway capital projects, small start projects, and core capacity improvement projects.";

(2) in subsection (h)(6)—

(A) by striking "In carrying out" and inserting the following:

"(A) IN GENERAL.—In carrying out"; and

(B) by adding at the end the following:

"(B) OPTIONAL EARLY RATING.—At the request of the project sponsor, the Secretary shall evaluate and rate the project in accordance with paragraphs (4) and (5) and subparagraph (A) of this paragraph upon completion of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).";

(3) in subsection (i)—

(A) in paragraph (1) by striking "subsection (d) or (e)" and inserting "subsection (d), (e), or (h)";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A) by inserting "new fixed guideway capital project or core capacity improvement" after "federally funded";

(ii) by striking subparagraph (D) and inserting the following:

"(D) the program of interrelated projects, when evaluated as a whole—

"(i) meets the requirements of subsection (d)(2), subsection (e)(2), or paragraphs (3) and (4) of subsection (h), as applicable, if the program is comprised entirely of—

"(I) new fixed guideway capital projects;

"(II) core capacity improvement projects; or

"(III) small start projects; or

"(ii) meets the requirements of subsection (d)(2) if the program is comprised of any combination of new fixed guideway projects, small start projects, and core capacity improvement projects.";

(C) by striking paragraph (3)(A) and inserting the following:

"(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance—

"(i) in the case of a small start project, from the project development phase to the construction phase unless the Secretary determines that the program of interrelated projects meets the applicable requirements

of this section and there is a reasonable likelihood that the program will continue to meet such requirements; or

"(ii) in the case of a new fixed guideway capital project or a core capacity improvement project, from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements.";

(4) in subsection (l)—

(A) by striking paragraph (1) and inserting the following:

"(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. A grant for a new fixed guideway project shall not exceed 50 percent of the net capital project cost. A grant for a core capacity project shall not exceed 80 percent of the net capital project cost of the incremental cost of increasing the capacity in the corridor. A grant for a small start project shall not exceed 80 percent."; and

(B) by striking paragraph (4) and inserting the following:

"(4) REMAINING COSTS.—The remainder of the net project costs shall be provided—

"(A) in cash from non-Government sources other than revenues from providing public transportation services;

"(B) from revenues from the sale of advertising and concessions;

"(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; or

"(D) 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.";

(5) by striking subsection (n) and redesignating subsection (o) as subsection (n); and

(6) by adding at the end the following:

"(o) SPECIAL RULE.—For the purposes of calculating the cost effectiveness of a project described in subsection (d) or (e), the Secretary shall not reduce or eliminate the capital costs of art and landscaping elements from the annualized capital cost calculation.".

SEC. 3006. FORMULA GRANTS FOR ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.

Section 5310 of title 49, United States Code, is amended by adding at the end the following:

"(i) BEST PRACTICES.—The Secretary shall collect from, review, and disseminate to public transit agencies innovative practices, program models, new service delivery options, findings from activities under subsection (h), and transit cooperative research program reports.".

SEC. 3007. FORMULA GRANTS FOR RURAL AREAS.

Section 5311(g)(3) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (D) as subparagraphs (C) through (F), respectively;

(2) by inserting before subparagraph (C) (as so redesignated) the following:

"(A) may be provided in cash from non-Government sources other than revenues from providing public transportation services;

"(B) may be provided from revenues from the sale of advertising and concessions;"; and

(3) in subparagraph (F) (as so redesignated) by inserting ", including all operating and capital costs of such service whether or not offset by revenue from such service," after "the costs of a private operator for the unsubsidized segment of intercity bus service".

SEC. 3008. PUBLIC TRANSPORTATION INNOVATION.

(a) CONSOLIDATION OF PROGRAMS.—Section 5312 of title 49, United States Code, is amended—

(1) by striking the section designation and heading and inserting the following:

"§ 5312. Public transportation innovation";

(2) by redesignating subsections (a) through (f) as subsections (b) through (g), respectively;

(3) by inserting before subsection (b) (as so redesignated) the following:

"(a) IN GENERAL.—The Secretary shall provide assistance for projects and activities to advance innovative public transportation research and development in accordance with the requirements of this section.";

(4) in subsection (e)(5) (as so redesignated)—

(A) in subparagraph (A) by striking clause (vi) and redesignating clause (vii) as clause (vi);

(B) in subparagraph (B) by striking "recipients" and inserting "participants";

(C) in subparagraph (C) by striking clause (ii) and inserting the following:

"(ii) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project carried out under this paragraph shall be 80 percent of the net project cost of the project unless the grant recipient requests a lower grant percentage."; and

(D) by striking subparagraph (G);

(5) in subsection (f) (as so redesignated)—

(A) by striking "(f)" and all that follows before paragraph (1) and inserting the following:

"(f) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall make available to the public on the Web site of the Department of Transportation, a report that includes—";

(B) in paragraph (1) by adding "and" at the end;

(C) in paragraph (2) by striking "; and" and inserting a period; and

(D) by striking paragraph (3); and

(6) by adding at the end the following:

"(h) TRANSIT COOPERATIVE RESEARCH PROGRAM.—

"(1) IN GENERAL.—The amounts made available under section 5338(b) are available for a public transportation cooperative research program.

"(2) INDEPENDENT GOVERNING BOARD.—

"(A) ESTABLISHMENT.—The Secretary shall establish an independent governing board for the program under this subsection.

"(B) RECOMMENDATIONS.—The board shall recommend public transportation research, development, and technology transfer activities the Secretary considers appropriate.

"(3) FEDERAL ASSISTANCE.—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 considers appropriate.

"(4) GOVERNMENT'S SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this subsection, the Secretary shall establish a Government share consistent with that benefit.

"(5) LIMITATION ON APPLICABILITY.—Subsections (f) and (g) shall not apply to activities carried out under this subsection.".

(b) CONFORMING AMENDMENTS.—Section 5312 of such title (as amended by subsection (a) of this section) is further amended—

(1) in subsection (c)(1) by striking "subsection (a)(2)" and inserting "subsection (b)(2)";

(2) in subsection (d)—

(A) in paragraph (1) by striking "subsection (a)(2)" and inserting "subsection (b)(2)"; and

(B) in paragraph (2)(A) by striking "subsection (b)" and inserting "subsection (c)";

(3) in subsection (e)(2) in each of subparagraphs (A) and (B) by striking "subsection (a)(2)" and inserting "subsection (b)(2)"; and

(4) in subsection (f)(2) by striking "subsection (d)(4)" and inserting "subsection (e)(4)".

(c) REPEAL.—Section 5313 of such title, and the item relating to that section in the analysis for chapter 53 of such title, are repealed.

(d) CLERICAL AMENDMENT.—The analysis for chapter 53 of such title is amended by striking the item relating to section 5312 and inserting the following:

"5312. Public transportation innovation.".

SEC. 3009. TECHNICAL ASSISTANCE AND WORKFORCE DEVELOPMENT.

(a) IN GENERAL.—Section 5314 of title 49, United States Code, is amended to read as follows:

"§ 5314. Technical assistance and workforce development

"(a) TECHNICAL ASSISTANCE AND STANDARDS.—

"(1) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

"(A) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agree-

ments with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

"(i) more effectively and efficiently provide public transportation service;

"(ii) administer funds received under this chapter in compliance with Federal law; and

"(iii) improve public transportation.

"(B) ELIGIBLE ACTIVITIES.—The activities carried out under subparagraph (A) may include—

"(i) technical assistance; and

"(ii) the development of voluntary and consensus-based standards and best practices by the public transportation industry, including standards and best practices for safety, fare collection, intelligent transportation systems, accessibility, procurement, security, asset management to maintain a state of good repair, operations, maintenance, vehicle propulsion, communications, and vehicle electronics.

"(2) TECHNICAL ASSISTANCE.—The Secretary, through a competitive bid process, may enter into contracts, cooperative agreements, and other agreements with national nonprofit organizations that have the appropriate demonstrated capacity to provide public-transportation-related technical assistance under this subsection. The Secretary may enter into such contracts, cooperative agreements, and other agreements to assist providers of public transportation to—

"(A) comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act;

"(B) 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 technical assistance, training, and support services related to complying with such requirements;

"(C) meet the transportation needs of elderly individuals;

"(D) increase transit ridership in coordination with metropolitan planning organizations and other entities through development around public transportation stations through technical assistance and the development of tools, guidance, and analysis related to market-based development around transit stations;

"(E) address transportation equity with regard to the effect that transportation planning, investment, and operations have for low-income and minority individuals;

"(F) facilitate best practices to promote bus driver safety;

"(G) meet the requirements of sections 5323(j) and 5323(m);

"(H) assist with the development and deployment of zero emission transit technologies; and

"(I) any other technical assistance activity that the Secretary determines is necessary to advance the interests of public transportation.

"(3) ANNUAL REPORT ON TECHNICAL ASSISTANCE.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report that includes—

"(A) a description of each project that received assistance under this subsection during the preceding fiscal year;

"(B) an evaluation of the activities carried out by each organization that received assistance under this subsection during the preceding fiscal year;

"(C) a proposal for allocations of amounts for assistance under this subsection for the subsequent fiscal year; and

"(D) measurable outcomes and impacts of the programs funded under subsections (b) and (c).

"(4) GOVERNMENT SHARE OF COSTS.—

"(A) IN GENERAL.—The Government share of the cost of an activity carried out using a grant under this subsection may not exceed 80 percent.

"(B) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity carried out using a grant under this subsection may be derived from in-kind contributions.

"(b) HUMAN RESOURCES AND TRAINING.—

"(1) IN GENERAL.—The Secretary may undertake, or make grants and contracts for, programs that address human resource needs as they apply to public transportation activities. A program may include—

"(A) an employment training program;

"(B) an outreach program to increase veteran, minority, and female employment in public transportation activities;

"(C) research on public transportation personnel and training needs;

"(D) training and assistance for veteran and minority business opportunities; and

"(E) consensus-based national training standards and certifications in partnership with industry stakeholders.

"(2) INNOVATIVE PUBLIC TRANSPORTATION FRONTLINE WORKFORCE DEVELOPMENT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subparagraph (1).

"(B) ELIGIBLE PROGRAMS.—A program eligible for assistance under subsection (a) shall—

"(i) develop apprenticeships for transit maintenance and operations occupations, including hands-on, peer trainer, classroom and on-the-job training as well as training for instructors and on-the-job mentors;

"(ii) build local, regional, and statewide transit training partnerships in coordination with entities such as local employers, local public transportation operators, labor union organizations, workforce development boards, State workforce agencies, State apprenticeship agencies (where applicable), and community colleges and university transportation centers, to identify and address workforce skill gaps and develop skills needed for delivering quality transit service and supporting employee career advancement;

"(iii) provide improved capacity for safety, security, and emergency preparedness in local transit systems through—

"(I) developing the role of the frontline workforce in building and sustaining safety culture and safety systems in the industry and in individual public transportation systems;

"(II) specific training, in coordination with the National Transit Institute, on security and emergency preparedness, including protocols for coordinating with first responders and working with the broader community to address natural disasters or other threats to transit systems; and

"(III) training to address frontline worker roles in promoting health and safety for transit workers and the riding public, and improving communication during emergencies between the frontline workforce and the riding public;

"(iv) address current or projected workforce shortages by developing career pathway partnerships with high schools, community colleges, and other community organizations for recruiting and training underrepresented populations, including minorities, women, individuals with disabilities, veterans, and low-income populations as successful transit employees who can develop careers in the transit industry; or

"(v) address youth unemployment by directing the Secretary to award grants to local entities for work-based training and other work-related and educational strategies and activities of demonstrated effectiveness to provide unemployed, low-income young adults and low-income youth with skills that will lead to employment.

"(C) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

"(i) are geographically diverse;

"(ii) address the workforce and human resources needs of large public transportation providers;

"(iii) address the workforce and human resources needs of small public transportation providers;

"(iv) address the workforce and human resources needs of urban public transportation providers;

"(v) address the workforce and human resources needs of rural public transportation providers;

"(vi) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;

"(vii) target areas with high rates of unemployment;

"(viii) address current or projected workforce shortages in areas that require technical expertise; and

"(ix) advance opportunities for minorities, women, veterans, individuals with disabilities, low-income populations, and other underserved populations.

"(D) PROGRAM OUTCOMES.—A recipient of assistance under this subsection shall demonstrate outcomes for any program that includes skills training, on-the-job training, and work-based learning, including—

"(i) the impact on reducing public transportation workforce shortages in the area served;

"(ii) the diversity of training participants; and

"(iii) the number of participants obtaining certifications or credentials required for specific types of employment.

"(3) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under paragraph (1) or (2) shall be 50 percent.

"(4) USE FOR TECHNICAL ASSISTANCE.—The Secretary may use not more than 1 percent of amounts made available to carry out this section to provide technical assistance for activities and programs developed, conducted, and overseen under paragraphs (1) and (2).

"(c) NATIONAL TRANSIT INSTITUTE.—

"(1) ESTABLISHMENT.—The Secretary shall establish a national transit institute and award grants to a public, 4-year institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), in order to carry out the duties of the institute.

"(2) DUTIES.—

"(A) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under paragraph (1) 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.

"(B) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under subparagraph (A) may include courses in recent developments, techniques, and procedures related to—

"(i) intermodal and public transportation planning;

"(ii) management;

"(iii) environmental factors;

"(iv) acquisition and joint-use rights-of-way;

"(v) engineering and architectural design;

"(vi) procurement strategies for public transportation systems;

"(vii) turnkey approaches to delivering public transportation systems;

"(viii) new technologies;

"(ix) emission reduction technologies;

"(x) ways to make public transportation accessible to individuals with disabilities;

"(xi) construction, construction management, insurance, and risk management;

"(xii) maintenance;

"(xiii) contract administration;

"(xiv) inspection;

"(xv) innovative finance;

"(xvi) workplace safety; and

"(xvii) public transportation security.

"(3) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this subsection shall be provided—

"(A) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or

"(B) when the education and training are paid under paragraph (4), by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

"(4) AVAILABILITY OF AMOUNTS.—Not more than 0.5 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 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 edu-

cating and training State and local transportation employees under this subsection.".

(b) REPEAL.—Section 5322 of such title, and the item relating to that section in the analysis for chapter 53 of such title, are repealed.

(c) CLERICAL AMENDMENT.—The analysis for chapter 53 of such title is amended by striking the item relating to section 5314 and inserting the following:

"5314. Technical assistance and workforce development.".

SEC. 3010. BICYCLE FACILITIES.

Section 5319 of title 49, United States Code, is amended—

(1) by striking "90 percent" and inserting "80 percent"; and

(2) by striking "95 percent" and inserting "80 percent".

SEC. 3011. GENERAL PROVISIONS.

Section 5323 of title 49, United States Code, is amended—

(1) in subsection (h)—

(A) in paragraph (1) by striking "or" at the end;

(B) by redesignating paragraph (2) as paragraph (3); and

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

"(2) pay incremental costs of incorporating art or landscaping into facilities, including the costs of an artist on the design team; or";

(2) in subsection (i) by adding at the end the following:

"(3) ACQUISITION OF BASE-MODEL BUSES.—A grant for the acquisition of a base-model bus for use in public transportation may be not more than 85 percent of the net project cost.";

(3) in subsection (j)(2) by striking subparagraph (C) and inserting the following:

"(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

"(i) the cost of components and subcomponents produced in the United States—

"(I) for fiscal years 2016 and 2017, is more than 60 percent of the cost of all components of the rolling stock;

"(II) for fiscal years 2018 and 2019, is more than 65 percent of the cost of all components of the rolling stock; and

"(III) for fiscal year 2020 and each fiscal year thereafter, is more than 70 percent of the cost of all components of the rolling stock; and

"(ii) final assembly of the rolling stock has occurred in the United States; or"; and

(4) by adding at the end the following:

"(s) VALUE CAPTURE REVENUE ELIGIBLE FOR LOCAL SHARE.—A recipient of assistance under this chapter may use the revenue generated from value capture financing mechanisms as local matching funds for capital projects and operating costs eligible under this chapter.

"(t) SPECIAL CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—If, in a 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 such 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 in the following fiscal year.".

SEC. 3012. PUBLIC TRANSPORTATION SAFETY PROGRAM.

Section 5329 of title 49, United States Code, is amended—

(1) in subsection (b)(2)—

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

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following:

"(D) minimum safety standards to ensure the safe operation of public transportation systems that—

"(i) are not related to performance standards for public transportation vehicles developed under subparagraph (C); and

"(ii) to the extent practicable, take into consideration—

"(I) relevant recommendations of the National Transportation Safety Board;

"(II) best practices standards developed by the public transportation industry;

"(III) any minimum safety standards or performance criteria being implemented across the public transportation industry;

"(IV) relevant recommendations from the report under section 3018 of the Surface Transportation Reauthorization and Reform Act of 2015; and

"(V) any additional information that the Secretary determines necessary and appropriate;";

(2) by striking subsection (f) and inserting the following:

"(f) AUTHORITY OF SECRETARY.—

"(1) IN GENERAL.—In carrying out this section, the Secretary may—

"(A) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

"(B) make reports and issue directives with respect to the safety of the public transportation system of a recipient or the public transportation industry generally;

"(C) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

"(i) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General as to whether the subpoena will interfere with an ongoing criminal investigation; and

"(ii) the Attorney General—

"(I) determines that the subpoena will not interfere with an ongoing criminal investigation; or

"(II) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under clause (i);

"(D) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

"(E) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

"(F) at reasonable times and in a reasonable manner, enter and inspect relevant records of the public transportation system of a recipient; and

"(G) issue rules to carry out this section.

"(2) ADDITIONAL AUTHORITY.—

"(A) ADMINISTRATION OF STATE SAFETY OVERSIGHT ACTIVITIES.—If the Secretary finds that a State safety oversight agency that oversees a rail fixed guideway system operating in more than 2 States has become incapable of providing adequate safety oversight of such system, the Secretary may administer State safety oversight activities for such rail fixed guideway system until the States develop a State safety oversight program certified by the Secretary in accordance with subsection (e).

"(B) FUNDING.—To carry out administrative and oversight activities authorized by this paragraph, the Secretary may use—

"(i) grant funds apportioned to an eligible State under subsection (e)(6) to develop or carry out a State safety oversight program; and

"(ii) grant funds apportioned to an eligible State under subsection (e)(6) that have not been obligated within the administrative period of availability.";

(3) in subsection (g)(1)—

(A) in the matter preceding subparagraph (A) by striking "an eligible State, as defined in subsection (e)," and inserting "a recipient";

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

(C) in subparagraph (D) by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following:

"(E) withholding not more than 25 percent of financial assistance under section 5307."; and

(4) in subsection (g)(2)—

(A) in subparagraph (A)—

(i) by inserting after "funds" the following: "or withhold funds"; and

(ii) by inserting "or (1)(E)" after "paragraph (1)(D)";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) LIMITATION.—The Secretary may only withhold funds in accordance with paragraph (1)(E), if enforcement actions under subparagraph (A), (B), (C), or (D) did not bring the recipient into compliance.".

SEC. 3013. APPORTIONMENTS.

Section 5336 of title 49, United States Code, is amended—

(1) in subsection (a) in the matter preceding paragraph (1) by striking "subsection (h)(4)" and inserting "subsection (g)(5)";

(2) in subsection (b)(2)(E) by striking "22.27 percent" and inserting "27 percent";

(3) by striking subsection (g) and redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively;

(4) in subsection (g) (as so redesignated)—

(A) in paragraph (2) by striking "subsection (j)" and inserting "subsection (i)"; and

(B) by striking paragraph (3) and inserting the following:

"(3) of amounts not apportioned under paragraphs (1) and (2)—

"(A) for fiscal years 2016 through 2018, 1.5 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (h); and

"(B) for fiscal years 2019 through 2021, 2 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (h);";

(5) in subsection (h)(2)(A) (as so redesignated) by striking "subsection (h)(3)" and inserting "subsection (g)(3)"; and

(6) in subsection (i) (as so redesignated) by striking "subsection (h)(2)" and inserting "subsection (g)(2)".

SEC. 3014. STATE OF GOOD REPAIR GRANTS.

Section 5337 of title 49, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1) by striking "on a facility with access for other high-occupancy vehicles" and inserting "on high-occupancy vehicle lanes during peak hours";

(B) in paragraph (2) by inserting "vehicle" after "motorbus"; and

(C) by adding at the end the following:

"(5) USE OF FUNDS.—A recipient in an urbanized area may use any portion of the amount apportioned to the recipient under this subsection for high intensity fixed guideway state of good repair projects under subsection (c) if the recipient demonstrates to the satisfaction of the Secretary that the high intensity motorbus public transportation vehicles in the urbanized area are in a state of good repair."; and

(2) by adding at the end the following:

"(e) GOVERNMENT SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section 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; or

"(D) 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.".

SEC. 3015. AUTHORIZATIONS.

Section 5338 of title 49, United States Code, is amended to read as follows:

"§ 5338. Authorizations

"(a) FORMULA GRANTS.—

"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5314(c), 5318, 5335, 5337, 5339, and 5340, and section 20005(b) of the Federal Public Transportation Act of 2012—

"(A) $8,723,925,000 for fiscal year 2016;

"(B) $8,879,211,000 for fiscal year 2017;

"(C) $9,059,459,000 for fiscal year 2018;

"(D) $9,240,648,000 for fiscal year 2019;
"(E) $9,429,000,000 for fiscal year 2020; and
"(F) $9,617,580,000 for fiscal year 2021.

"(2) ALLOCATION OF FUNDS.—

"(A) SECTION 5305.—Of the amounts made available under paragraph (1), there shall be available to carry out section 5305—
"(i) $128,800,000 for fiscal year 2016;
"(ii) $128,800,000 for fiscal year 2017;
"(iii) $131,415,000 for fiscal year 2018;
"(iv) $134,043,000 for fiscal year 2019;
"(v) $136,775,000 for fiscal year 2020; and
"(vi) $139,511,000 for fiscal year 2021.

"(B) PILOT PROGRAM.—$10,000,000 for each of fiscal years 2016 through 2021, shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

"(C) SECTION 5307.—Of the amounts made available under paragraph (1), there shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307—
"(i) $4,458,650,000 for fiscal year 2016;
"(ii) $4,458,650,000 for fiscal year 2017;
"(iii) $4,549,161,000 for fiscal year 2018;
"(iv) $4,640,144,000 for fiscal year 2019;
"(v) $4,734,724,000 for fiscal year 2020; and
"(vi) $4,829,418,000 for fiscal year 2021.

"(D) SECTION 5310.—Of the amounts made available under paragraph (1), there shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310—
"(i) $262,175,000 for fiscal year 2016;
"(ii) $266,841,000 for fiscal year 2017;
"(iii) $272,258,000 for fiscal year 2018;
"(iv) $277,703,000 for fiscal year 2019;
"(v) $283,364,000 for fiscal year 2020; and
"(vi) $289,031,000 for fiscal year 2021.

"(E) SECTION 5311.—

"(i) IN GENERAL.—Of the amounts made available under paragraph (1), there shall be available to provide financial assistance for rural areas under section 5311—
"(I) $607,800,000 for fiscal year 2016;
"(II) $607,800,000 for fiscal year 2017;
"(III) $620,138,000 for fiscal year 2018;
"(IV) $632,541,000 for fiscal year 2019;
"(V) $645,434,000 for fiscal year 2020; and
"(VI) $658,343,000 for fiscal year 2021.

"(ii) SUBALLOCATION.—Of the amounts made available under clause (i)—
"(I) there shall be available to carry out section 5311(c)(1) not less than $30,000,000 for each of fiscal years 2016 through 2021; and
"(II) there shall be available to carry out section 5311(c)(2) not less than $20,000,000 for each of fiscal years 2016 through 2021.

"(F) SECTION 5314(c).—Of the amounts made available under paragraph (1), there shall be available for the national transit institute under section 5314(c) $5,000,000 for each of fiscal years 2016 through 2021.

"(G) SECTION 5318.—Of the amounts made available under paragraph (1), there shall be available for bus testing under section 5318 $3,000,000 for each of fiscal years 2016 through 2021.

"(H) SECTION 5335.—Of the amounts made available under paragraph (1), there shall be available to carry out section 5335 $3,850,000 for each of fiscal years 2016 through 2021.

"(I) SECTION 5337.—Of the amounts made available under paragraph (1), there shall be available to carry out section 5337—
"(i) $2,198,389,000 for fiscal year 2016;
"(ii) $2,237,520,000 for fiscal year 2017;
"(iii) $2,282,941,000 for fiscal year 2018;
"(iv) $2,328,600,000 for fiscal year 2019;
"(v) $2,376,064,000 for fiscal year 2020; and
"(vi) $2,423,585,000 for fiscal year 2021.

"(J) SECTION 5339(c).—Of the amounts made available under paragraph (1), there shall be available for bus and bus facilities programs under section 5339(c)—

"(i) $430,000,000 for fiscal year 2016;
"(ii) $431,850,000 for fiscal year 2017;
"(iii) $445,120,000 for fiscal year 2018;
"(iv) $458,459,000 for fiscal year 2019;
"(v) $472,326,000 for fiscal year 2020; and
"(vi) $486,210,000 for fiscal year 2021.

"(K) SECTION 5339(d).—Of the amounts made available under paragraph (1), there shall be available for bus and bus facilities competitive grants under 5339(d)—

"(i) $90,000,000 for fiscal year 2016; and
"(ii) $200,000,000 for each of fiscal years 2017 through 2021.

"(L) SECTION 5340.—Of the amounts made available under paragraph (1), there shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and rural areas under section 5311—

"(i) $525,900,000 for fiscal year 2016;
"(ii) $525,900,000 for fiscal year 2017;
"(iii) $536,576,000 for fiscal year 2018;
"(iv) $547,307,000 for fiscal year 2019;
"(v) $558,463,000 for fiscal year 2020; and
"(vi) $569,632,000 for fiscal year 2021.

"(b) RESEARCH, DEVELOPMENT DEMONSTRATION AND DEPLOYMENT PROJECTS.—There are authorized to be appropriated to carry out section 5312—

"(1) $33,495,000 for fiscal year 2016;
"(2) $34,091,000 for fiscal year 2017;
"(3) $34,783,000 for fiscal year 2018;
"(4) $35,479,000 for fiscal year 2019;
"(5) $36,202,000 for fiscal year 2020; and
"(6) $36,926,000 for fiscal year 2021.

"(c) TECHNICAL ASSISTANCE, STANDARDS, AND WORKFORCE DEVELOPMENT.—There are authorized to be appropriated to carry out section 5314—

"(1) $6,156,000 for fiscal year 2016;
"(2) $8,152,000 for fiscal year 2017;
"(3) $10,468,000 for fiscal year 2018;
"(4) $12,796,000 for fiscal year 2019;
"(5) $15,216,000 for fiscal year 2020; and
"(6) $17,639,000 for fiscal year 2021.

"(d) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309—

"(1) $2,029,000,000 for fiscal year 2016;
"(2) $2,065,000,000 for fiscal year 2017;
"(3) $2,106,000,000 for fiscal year 2018;
"(4) $2,149,000,000 for fiscal year 2019;
"(5) $2,193,000,000 for fiscal year 2020; and
"(6) $2,237,000,000 for fiscal year 2021.

"(e) ADMINISTRATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, $105,933,000 for fiscal years 2016 through 2021.

"(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than $4,500,000 for each of fiscal years 2016 through 2021 shall be available to carry out section 5329.

"(3) SECTION 5326.—Of the amounts made available under paragraph (1), not less than $1,000,000 for each of fiscal years 2016 through 2021 shall be available to carry out section 5326.

"(f) PERIOD OF AVAILABILITY.—Amounts made available by or appropriated under this section 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.

"(g) 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 Government 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 Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(h) OVERSIGHT.—

"(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

"(A) 0.5 percent of amounts made available to carry out section 5305.

"(B) 0.75 percent of amounts made available to carry out section 5307.

"(C) 1 percent of amounts made available to carry out section 5309.

"(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 122 Stat. 4968).

"(E) 0.5 percent of amounts made available to carry out section 5310.

"(F) 0.5 percent of amounts made available to carry out section 5311.

"(G) 0.75 percent of amounts made available to carry out section 5337(c), of which not less than 0.25 percent shall be available to carry out section 5329.

"(H) 0.75 percent of amounts made available to carry out section 5339.

"(2) ACTIVITIES.—The activities described in this paragraph are as follows:

"(A) Activities to oversee the construction of a major capital project.

"(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

"(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

"(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

"(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.".

SEC. 3016. BUS AND BUS FACILITY GRANTS.

(a) IN GENERAL.—Section 5339 of title 49, United States Code, is amended to read as follows:

"§ 5339. Bus and bus facility grants

"(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist eligible recipients described in subsection (b)(1) in financing capital projects—

"(1) to replace, rehabilitate, and purchase buses and related equipment; and

"(2) to construct bus-related facilities.

"(b) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

"(1) RECIPIENTS.—Eligible recipients under this section are designated recipients that operate fixed route bus service or that allocate funding to fixed route bus operators.

"(2) SUBRECIPIENTS.—A designated recipient that receives a grant under this section may allocate amounts of the grant to subrecipients that are public agencies or private nonprofit organizations engaged in public transportation.

"(c) FORMULA GRANT DISTRIBUTION OF FUNDS.—

"(1) IN GENERAL.—Funds made available for making grants under this subsection shall be distributed as follows:

"(A) NATIONAL DISTRIBUTION.—$65,500,000 for each of fiscal years 2016 through 2021 shall be allocated to all States and territories, with each State receiving $1,250,000, and each territory receiving $500,000, for each such fiscal year.

"(B) DISTRIBUTION USING POPULATION AND SERVICE FACTORS.—The remainder of the funds not otherwise distributed under paragraph (1) shall be allocated pursuant to the formula set forth in section 5336 (other than subsection (b) of that section).

"(2) TRANSFERS OF APPORTIONMENTS.—

"(A) TRANSFER FLEXIBILITY FOR NATIONAL DISTRIBUTION FUNDS.—The Governor of a State may transfer any part of the State's apportionment under subparagraph (A) to supplement—

"(i) amounts apportioned to the State under section 5311(c); or

"(ii) amounts apportioned to urbanized areas under subsections (a) and (c) of section 5336.

"(B) TRANSFER FLEXIBILITY FOR POPULATION AND SERVICE FACTORS FUNDS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 any amounts apportioned under para-

graph (1)(B) that are not allocated to designated recipients in urbanized areas with a population of 200,000 or more.

"(3) PERIOD OF AVAILABILITY TO RECIPIENTS.—

"(A) IN GENERAL.—Amounts made available under this subsection may be obligated by a recipient for 3 years after the fiscal year in which the amount is apportioned.

"(B) REAPPORTIONMENT OF UNOBLIGATED AMOUNTS.—Not later than 30 days after the end of the 3-year period described in subparagraph (A), any amount that is not obligated on the last day of that period shall be added to the amount that may be apportioned under this subsection in the next fiscal year.

"(4) PILOT PROGRAM FOR COST-EFFECTIVE CAPITAL INVESTMENT.—

"(A) IN GENERAL.—For each of fiscal years 2016 through 2021, the Secretary shall carry out a pilot program under which an eligible designated recipient (as described in subsection (c)(1)) in an urbanized area with population of not less than 200,000 and not more than 999,999 may elect to participate in a State pool in accordance with this paragraph.

"(B) PURPOSE OF STATE POOLS.—The purpose of a State pool shall be to allow for transfers of formula grant funds made available under this subsection among the designated recipients participating in the State pool in a manner that supports the transit asset management plans of the designated recipients under section 5326.

"(C) REQUESTS FOR PARTICIPATION.—A State, and designated recipients in the State described in subparagraph (A), may submit to the Secretary a request for participation in the program under procedures to be established by the Secretary. A designated recipient for a multistate area may participate in only 1 State pool.

"(D) ALLOCATIONS TO PARTICIPATING STATES.—For each fiscal year, the Secretary shall allocate to each State participating in the program the total amount of funds that otherwise would be allocated to the urbanized areas of the designated recipients participating in the State's pool for that fiscal year pursuant to the formula referred to in paragraph (1).

"(E) ALLOCATIONS TO DESIGNATED RECIPIENTS IN STATE POOLS.—A State shall distribute the amount that is allocated to the State for a fiscal year under subparagraph (D) among the designated recipients participating in the State's pool in a manner that supports the transit asset management plans of the recipients under section 5326.

"(F) ALLOCATION PLANS.—A State participating in the program shall develop an allocation plan for the period of fiscal years 2016 through 2021 to ensure that a designated recipient participating in the State's pool receives under the program an amount of funds that equals the amount of funds that would have otherwise been available to the designated recipient for that period pursuant to the formula referred to in paragraph (1).

"(G) GRANTS.—The Secretary shall make grants under this subsection for a fiscal year to a designated recipient participating in a State pool following notification by the State of the allocation amount determined under subparagraph (E).

"(d) COMPETITIVE GRANTS FOR BUS STATE OF GOOD REPAIR.—

"(1) IN GENERAL.—The Secretary may make grants under this subsection to eligible recipients described in subsection (b)(1) to assist in financing capital projects described in subsection (a).

"(2) GRANT CONSIDERATIONS.—In making grants under this subsection, the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities of an eligible recipient.

"(3) STATEWIDE APPLICATIONS.—A State may submit a statewide application on behalf of a public agency or private nonprofit organization engaged in public transportation in rural areas or other areas for which the State allocates funds. The submission of a statewide application shall not preclude the submission and consideration of any application under this subsection from other eligible recipients in an urbanized area in a State.

"(4) REQUIREMENTS FOR SECRETARY.—The Secretary shall—

"(A) disclose all metrics and evaluation procedures to be used in considering grant applications under this subsection upon issuance of the notice of funding availability in the Federal Register; and

"(B) publish a summary of final scores for selected projects, metrics, and other evaluations used in awarding grants under this subsection in the Federal Register.

"(5) AVAILABILITY OF FUNDS.—Any amounts made available to carry out this subsection—

"(A) shall remain available for 2 fiscal years after the fiscal year for which the amount is made available; and

"(B) following the period of availability shall be made available to be apportioned under subsection (c) for the following fiscal year.

"(6) LIMITATION.—Of the amounts made available under this subsection, not more than 15 percent in fiscal year 2016 and not more than 5 percent in each of fiscal years 2017 through 2021 may be awarded to a single recipient.

"(7) GRANT FLEXIBILITY.—If the Secretary determines that there are not sufficient grant applications that meet the metrics described in paragraph (4)(A) to utilize the full amount of funds made available to carry out this subsection for a fiscal year, the Secretary may use the remainder of the funds for making apportionments under sections 5307 and 5311.

"(e) GENERALLY APPLICABLE PROVISIONS.—

"(1) GRANT REQUIREMENTS.—A grant under this section shall be subject to the requirements of—

"(A) section 5307 for recipients of grants made in urbanized areas; and

"(B) section 5311 for recipients of grants made in rural areas.

"(2) GOVERNMENT'S SHARE OF COSTS.—

"(A) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project. A recipient of a grant under this section may provide additional local matching amounts.

"(B) REMAINING COSTS.—The remainder of the net project cost shall be provided—

"(i) in cash from non-Government sources other than revenues from providing public transportation services;

"(ii) from revenues derived from the sale of advertising and concessions;

"(iii) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; or

"(iv) from amounts received under a service agreement with a State or local social service agency or private social service organization.

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

"(1) STATE.—The term 'State' means a State of the United States.

"(2) TERRITORY.—The term 'territory' means the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 of title 49, United States Code, is amended by striking the item relating to section 5339 and inserting the following:

"5339. Bus and bus facility grants.".

SEC. 3017. 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 subsection (a) of section 5338 of title 49, United States Code, shall not exceed—

(1) $8,724,000,000 in fiscal year 2016;
(2) $8,879,000,000 in fiscal year 2017;
(3) $9,059,000,000 in fiscal year 2018;
(4) $9,240,000,000 in fiscal year 2019;
(5) $9,429,000,000 in fiscal year 2020; and
(6) $9,618,000,000 in fiscal year 2021.

SEC. 3018. INNOVATIVE PROCUREMENT.

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

(1) COOPERATIVE PROCUREMENT CONTRACT.—The term "cooperative procurement contract" means a contract—

(A) entered into between a State government and 1 or more vendors; and

(B) under which the vendors agree to provide an option to purchase rolling stock and related equipment to multiple participants.

(2) LEAD PROCUREMENT AGENCY.—The term "lead procurement agency" means a State government that acts in an administrative capacity on behalf of each participant in a cooperative procurement contract.

(3) PARTICIPANT.—The term "participant" means a grantee that participates in a cooperative procurement contract.

(4) PARTICIPATE.—The term "participate" means to purchase rolling stock and related equipment under a cooperative procurement contract using assistance provided under chapter 53 of title 49, United States Code.

(5) GRANTEE.—The term "grantee" means a recipient and subrecipient of assistance under chapter 53 of title 49, United States Code.

(b) COOPERATIVE PROCUREMENT.—

(1) GENERAL RULES.—

(A) PROCUREMENT NOT LIMITED TO INTRASTATE PARTICIPANTS.—A grantee may participate in a cooperative procurement contract without regard to whether the grantee is located in the same State as the parties to the contract.

(B) VOLUNTARY PARTICIPATION.—Participation by grantees in a cooperative procurement contract shall be voluntary.

(2) AUTHORITY.—A State government may enter into a cooperative procurement contract with 1 or more vendors if the vendors agree to provide an option to purchase rolling stock and related equipment to the lead procurement agency and any other participant.

(3) APPLICABILITY OF POLICIES AND PROCEDURES.—In procuring rolling stock and related equipment under a cooperative procurement contract under this subsection, a lead procurement agency shall comply with the policies and procedures that apply to procurement by the State government when using non-Federal funds, to the extent that the policies and procedures are in conformance with applicable Federal law.

(c) JOINT PROCUREMENT CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall establish a clearinghouse for the purpose of allowing grantees to aggregate planned rolling stock purchases and identify joint procurement participants.

(2) INFORMATION ON PROCUREMENTS.—The clearinghouse may include information on bus size, engine type, floor type, and any other attributes necessary to identify joint procurement participants.

(3) LIMITATIONS.—

(A) ACCESS.—The clearinghouse shall only be accessible to the Federal Transit Administration and grantees.

(B) PARTICIPATION.—No grantees shall be required to submit procurement information to the database.

SEC. 3019. REVIEW OF PUBLIC TRANSPORTATION SAFETY STANDARDS.

(1) REVIEW REQUIRED.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall begin a review of the safety standards and protocols used in public transportation systems in the United States that examines the efficacy of existing standards and protocols.

(B) CONTENTS OF REVIEW.—In conducting the review under this paragraph, the Secretary shall review—

(i) minimum safety performance standards developed by the public transportation industry;

(ii) safety performance standards, practices, or protocols in use by rail fixed guideway public transportation systems, including—

(I) written emergency plans and procedures for passenger evacuations;

(II) training programs to ensure public transportation personnel compliance and readiness in emergency situations;

(III) coordination plans approved by recipients with local emergency responders having jurisdiction over a rail fixed guideway public transportation system, including—

(aa) emergency preparedness training, drills, and familiarization programs for the first responders; and

(bb) the scheduling of regular field exercises to ensure appropriate response and effective radio and public safety communications;

(IV) maintenance, testing, and inspection programs to ensure the proper functioning of—

(aa) tunnel, station, and vehicle ventilation systems;

(bb) signal and train control systems, track, mechanical systems, and other infrastructure; and

(cc) other systems as necessary;

(V) certification requirements for train and bus operators and control center employees;

(VI) consensus-based standards, practices, or protocols available to the public transportation industry; and

(VII) any other standards, practices, or protocols the Secretary determines appropriate; and

(iii) rail and bus safety standards, practices, or protocols in use by public transportation systems, regarding—

(I) rail and bus design and the workstation of rail and bus operators, as it relates to—

(aa) the reduction of blindspots that contribute to accidents involving pedestrians; and

(bb) protecting rail and bus operators from the risk of assault;

(II) scheduling fixed route rail and bus service with adequate time and access for operators to use restroom facilities;

(III) fatigue management; and

(IV) crash avoidance and worthiness.

(2) EVALUATION.—After conducting the review under paragraph (1), the Secretary shall, in consultation with representatives of the public transportation industry, evaluate the need to establish additional Federal minimum public transportation safety standards.

(3) REPORT.—After completing the review and evaluation required under paragraphs (1) and (2), but not later than 1 year after the date of enactment of this Act, the Secretary shall make available on a publicly accessible Web site, a report that includes—

(A) findings based on the review conducted under paragraph (1);

(B) the outcome of the evaluation conducted under paragraph (2);

(C) a comprehensive set of recommendations to improve the safety of the public transportation industry, including recommendations for statutory changes if applicable; and

(D) actions that the Secretary will take to address the recommendations provided under subparagraph (C), including, if necessary, the authorities under section 5329(b)(2)(D) of chapter 53 of title 49, United States Code.

SEC. 3020. STUDY ON EVIDENTIARY PROTECTION FOR PUBLIC TRANSPORTATION SAFETY PROGRAM INFORMATION.

(a) STUDY.—The Comptroller General shall complete a study to evaluate whether it is in the public interest, including public safety and the legal rights of persons injured in public transportation accidents, to withhold from discovery or admission into evidence in a Federal or State court proceeding any plan, report, data, or other information or portion thereof, submitted to, developed, produced, collected, or obtained by the Secretary or the Secretary's representative for purposes of complying with the requirements under section 5329 of chapter 53 of title 49, United States Code, including information related to a recipient's safety plan, safety risks, and mitigation measures.

(b) INPUT.—In conducting the study under subsection (a), the Comptroller General shall solicit input from the public transportation recipients, public transportation nonprofit employee labor organizations, and impacted members of the general public.

(c) REPORT.—Not later than 18 months after the date of enactment of this section, the Comptroller General shall issue a report, with the findings of the study under subsection (a), including any recommendations on statutory changes regarding evidentiary protections that will increase transit safety.

SEC. 3021. MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.

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

(1) ALLOCATED COST MODEL.—The term "allocated cost model" means a method of determining the cost of trips by allocating the cost to each trip purpose served by a transportation provider in a manner that is proportional to the level of transportation service that the transportation provider delivers for each trip purpose, to the extent permitted by applicable Federal laws.

(2) COUNCIL.—The term "Council" means the Interagency Transportation Coordinating Council on Access and Mobility established under Executive Order 13330 (49 U.S.C. 101 note).

(b) STRATEGIC PLAN.—Not later than 1 year after the date of enactment of this Act, the Council shall publish a strategic plan for the Council that—

(1) outlines the role and responsibilities of each Federal agency with respect to local transportation coordination, including nonemergency medical transportation;

(2) identifies a strategy to strengthen interagency collaboration;

(3) addresses any outstanding recommendations made by the Council in the 2005 Report to the President relating to the implementation of Executive Order 13330, including—

(A) a cost-sharing policy endorsed by the Council; and

(B) recommendations to increase participation by recipients of Federal grants in locally developed, coordinated planning processes;

(4) to the extent feasible, addresses recommendations by the Comptroller General of the United States concerning local coordination of transportation services;

(5) examines and proposes changes to Federal regulations that will eliminate Federal barriers to local transportation coordination, including non-emergency medical transportation; and

(6) recommends to Congress changes to Federal laws, except chapter 53 of title 49, United States Code, that will eliminate Federal barriers to local transportation coordination, including nonemergency medical transportation.

(c) DEVELOPMENT OF COST-SHARING POLICY IN COMPLIANCE WITH APPLICABLE FEDERAL LAWS.—In establishing the cost-sharing policy required under subsection (b), the Council may consider, to the extent practicable—

(1) the development of recommended strategies for grantees of programs funded by members of the Council, including strategies for grantees of programs that fund nonemergency medical transportation, to use the cost-sharing policy in a manner that does not violate applicable Federal laws; and

(2) incorporation of an allocated cost model to facilitate local coordination efforts that comply with applicable requirements of programs funded by members of the Council, such as—

(A) eligibility requirements;

(B) service delivery requirements; and

(C) reimbursement requirements.

SEC. 3022. IMPROVED TRANSIT SAFETY MEASURES.

(a) REQUIREMENTS.—Not later than 90 days after publication of the report required in section 3019, the Secretary shall issue a notice of proposed rulemaking on protecting transit operators from the risk of assault.

(b) CONSIDERATION.—In the proposed rulemaking the Secretary shall consider—

(1) different safety needs of drivers of different modes;

(2) differences in operating environments;

(3) the use of technology to mitigate driver assault risks;

(4) existing experience, from both agencies and operators who already are using or testing driver assault mitigation infrastructure; and

(5) the impact of the rule on future rolling stock procurements and vehicles currently in revenue service.

(c) SAVINGS CLAUSE.—Nothing in this section may be construed as prohibiting the Secretary from issuing different comprehensive worker protections, including standards for mitigating assaults.

SEC. 3023. PARATRANSIT SYSTEM UNDER FTA APPROVED COORDINATED PLAN.

Notwithstanding the provisions of part 37.131(c) of title 49, Code of Federal Regulations, any paratransit system currently coordinating complementary paratransit service for more than 40 fixed route agencies shall be permitted to continue using an existing tiered, distance-based coordinated paratransit fare system.

TITLE IV—HIGHWAY SAFETY

SEC. 4001. 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—

(A) $260,274,200 for fiscal year 2016;

(B) $265,935,829 for fiscal year 2017;

(C) $271,787,002 for fiscal year 2018;

(D) $278,090,300 for fiscal year 2019;

(E) $284,874,829 for fiscal year 2020; and

(F) $291,195,558 for fiscal year 2021.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code—

(A) $115,951,600 for fiscal year 2016;

(B) $118,398,179 for fiscal year 2017;

(C) $121,665,968 for fiscal year 2018;

(D) $124,926,616 for fiscal year 2019;

(E) $128,187,201 for fiscal year 2020; and

(F) $131,455,975 for fiscal year 2021.

(3) NATIONAL PRIORITY SAFETY PROGRAMS.—For carrying out section 405 of title 23, United States Code—

(A) $275,862,400 for fiscal year 2016;
(B) $281,186,544 for fiscal year 2017;
(C) $286,500,970 for fiscal year 2018;
(D) $292,316,940 for fiscal year 2019;
(E) $298,601,754 for fiscal year 2020; and
(F) $304,394,628 for fiscal year 2021.

(4) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—
(A) $5,000,000 for fiscal year 2016;
(B) $5,000,000 for fiscal year 2017;
(C) $5,000,000 for fiscal year 2018;
(D) $5,000,000 for fiscal year 2019;
(E) $5,000,000 for fiscal year 2020; and
(F) $5,000,000 for fiscal year 2021.

(5) HIGH-VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 404 of title 23, United States Code—
(A) $29,411,800 for fiscal year 2016;
(B) $29,979,448 for fiscal year 2017;
(C) $30,546,059 for fiscal year 2018;
(D) $31,166,144 for fiscal year 2019;
(E) $31,836,216 for fiscal year 2020; and
(F) $32,453,839 for fiscal year 2021.

(6) 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—
(A) $25,500,000 for fiscal year 2016;
(B) $25,500,000 for fiscal year 2017;
(C) $25,500,000 for fiscal year 2018;
(D) $25,500,000 for fiscal year 2019;
(E) $25,500,000 for fiscal year 2020; and
(F) $25,500,000 for fiscal year 2021.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, and chapter 303 of title 49, United States Code, the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapters—
(1) shall only be used to carry out such program; and
(2) may not be used by States or local governments for construction purposes.

(c) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and chapter 303 of title 49, United States Code, amounts made available under subsection (a) for fiscal years 2016 through 2021 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) STATE MATCHING REQUIREMENTS.—If a grant awarded under chapter 4 of title 23, United States Code, requires a State to share in the cost, the aggregate of all expenditures for highway safety activities made during a fiscal year by the State and its political subdivisions (exclusive of Federal funds) for carrying out the grant (other than planning and administration) that are in excess of the amount required under Federal law shall be available for the purpose of crediting the State during such fiscal year for the non-Federal share of the cost of any other project carried out under chapter 4 of title 23, United States Code (other than planning or administration), without regard to whether such expenditures were made in connection with such project.

(e) GRANT APPLICATION AND DEADLINE.—To receive a grant under chapter 4 of title 23, United States Code, a State shall submit an application, and the Secretary shall establish a single deadline for such applications to enable the award of grants early in the next fiscal year.

SEC. 4002. HIGHWAY SAFETY PROGRAMS.

Section 402 of title 23, United States Code, is amended—

(1) in subsection (a)(2)(A)—
(A) in clause (vi) by striking "and" at the end;
(B) in clause (vii) by inserting "and" after the semicolon; and
(C) by adding at the end the following:
"(viii) to increase driver awareness of commercial motor vehicles to prevent crashes and reduce injuries and fatalities;";

(2) in subsection (c)(4), by adding at the end the following:
"(C) SURVEY.—A State shall expend funds apportioned to that State under this section to conduct a biennial survey that the Secretary shall

make publicly available through the Internet Web site of the Department of Transportation that includes—

"(i) a list of automated traffic enforcement systems in the State;

"(ii) adequate data to measure the transparency, accountability, and safety attributes of each automated traffic enforcement system; and

"(iii) a comparison of each automated traffic enforcement system with—

"(I) Speed Enforcement Camera Systems Operational Guidelines (DOT HS 810 916, March 2008); and

"(II) Red Light Camera Systems Operational Guidelines (FHWA–SA–05–002, January 2005).";

(3) by striking subsection (g) and inserting the following:

"(g) RESTRICTION.—Nothing in this section may be construed to authorize the appropriation or expenditure of funds for highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines).";

(4) in subsection (k)—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) ELECTRONIC SUBMISSION.—The Secretary, in coordination with the Governors Highway Safety Association, shall develop procedures to allow States to submit highway safety plans under this subsection, including any attachments to the plans, in electronic form."; and

(5) in subsection (m)(2)(A)—

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

(B) by adding at the end the following:

"(vi) increase driver awareness of commercial motor vehicles to prevent crashes and reduce injuries and fatalities; and".

SEC. 4003. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

Section 403 of title 23, United States Code, is amended—

(1) in subsection (b)(1)—

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

(B) by redesignating subparagraph (F) as subparagraph (G);

(C) by inserting after subparagraph (E) the following:

"(F) the installation of ignition interlocks in the United States; and"; and

(D) in subparagraph (G), as so redesignated, by striking "in subparagraphs (A) through (E)" and inserting "in subparagraphs (A) through (F)";

(2) in subsection (h) by striking paragraph (2) and inserting the following:

"(2) FUNDING.—The Secretary shall obligate for each of fiscal years 2016 through 2021, from funds made available to carry out this section, except that the total obligated for the period covering fiscal years 2016 through 2021 may not exceed $32,000,000, to conduct the research described in paragraph (1).";

and

(3) by adding at the end the following:

"(i) LIMITATION ON DRUG AND ALCOHOL SURVEY DATA.—The Secretary shall establish procedures and guidelines to ensure that any person participating in a program or activity that collects data on drug or alcohol use by drivers of motor vehicles and is carried out under this section is informed that the program or activity is voluntary.

"(j) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out under this section may be not more than 100 percent.".

SEC. 4004. HIGH-VISIBILITY ENFORCEMENT PROGRAM.

(a) IN GENERAL.—Section 404 of title 23, United States Code, is amended to read as follows:

"§ 404. High visibility enforcement program

"(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which not less than 3 campaigns will be carried out in each of fiscal years 2016 through 2021.

"(b) PURPOSE.—The purpose of each campaign carried out under this section shall be to achieve outcomes related to not less than 1 of the following objectives:

"(1) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

"(2) Increase use of seatbelts by occupants of motor vehicles.

"(3) Reduce distracted driving 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 and Internet-based outreach in carrying

out campaigns under this section. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen to, read, or watch nontraditional media.

"(d) COORDINATION WITH STATES.—The Administrator shall coordinate with States in carrying out the campaigns under this section, including advertising funded under subsection (c), with consideration given to—

"(1) relying on States to provide law enforcement resources for the campaigns out of funding available under sections 402 and 405; 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 campaigns.

"(e) USE OF FUNDS.—Funds made available to carry out this section may only be used for activities described in subsection (c).

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

"(1) CAMPAIGN.—The term 'campaign' means a high-visibility traffic safety law enforcement campaign.

"(2) STATE.—The term 'State' has the meaning such term has under section 401.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 404 and inserting the following:

"404. High-visibility enforcement program.".

SEC. 4005. NATIONAL PRIORITY SAFETY PROGRAMS.

(a) GENERAL AUTHORITY.—Section 405(a) of title 23, United States Code, is amended to read as follows:

"(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall manage programs to address national priorities for reducing highway deaths and injuries. Funds shall be allocated according to the following:

"(1) OCCUPANT PROTECTION.—In each fiscal year, 13 percent of the funds provided under this section shall be allocated among States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles (as described in subsection (b)).

"(2) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—In each fiscal year, 14.5 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to State traffic safety information system improvements (as described in subsection (c)).

"(3) IMPAIRED DRIVING COUNTERMEASURES.—In each fiscal year, 52.5 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to impaired driving countermeasures (as described in subsection (d)).

"(4) DISTRACTED DRIVING.—In each fiscal year, 8.5 percent of the funds provided under this section shall be allocated among States that adopt and implement effective laws to reduce distracted driving (as described in subsection (e)).

"(5) MOTORCYCLIST SAFETY.—In each fiscal year, 1.5 percent of the funds provided under this section shall be allocated among States that implement motorcyclist safety programs (as described in subsection (f)).

"(6) STATE GRADUATED DRIVER LICENSING LAWS.—In each fiscal year, 5 percent of the funds provided under this section shall be allocated among States that adopt and implement graduated driver licensing laws (as described in subsection (g)).

"(7) NONMOTORIZED SAFETY.—In each fiscal year, 5 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to nonmotorized safety (as described in subsection (h)).

"(8) TRANSFERS.—Notwithstanding paragraphs (1) through (7), the Secretary may reallocate, before the last day of any fiscal year, any amounts remaining available to carry out any of the activities described in subsections (b) through (h) to increase the amount made available under section 402, in order to ensure, to the maximum extent possible, that all such amounts are obligated during such fiscal year.

"(9) MAINTENANCE OF EFFORT.—

"(A) REQUIREMENTS.—No grant may be made to a State in any fiscal year under subsection (b), (c), or (d) 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 State and local sources for programs described in those subsections at or above the average

level of such expenditures in the 2 fiscal years preceding the date of enactment of this paragraph.

"(B) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under subparagraph (A) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.".

(b) HIGH SEATBELT USE RATE.—Section 405(b)(4)(B) of title 23, United States Code, is amended by striking "75 percent" and inserting "100 percent".

(c) IMPAIRED DRIVING COUNTERMEASURES.—Section 405(d) of title 23, United States Code, is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) USE OF GRANT AMOUNTS.—

"(A) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

"(i) high-visibility enforcement efforts; and

"(ii) any of the activities described in subparagraph (B) if—

"(I) the activity is described in the statewide plan; and

"(II) the Secretary approves the use of funding for such activity.

"(B) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

"(i) any of the purposes described in subparagraph (A);

"(ii) hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol, drugs, or the combination of alcohol and drugs;

"(iii) court support of high-visibility enforcement efforts, training and education of criminal justice professionals (including law enforcement, prosecutors, judges, and probation officers) to assist such professionals in handling impaired driving cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons, and establishing driving while intoxicated courts;

"(iv) alcohol ignition interlock programs;

"(v) improving blood-alcohol concentration testing and reporting;

"(vi) paid and earned media in support of high-visibility enforcement efforts, conducting standardized field sobriety training, advanced roadside impaired driving evaluation training, and drug recognition expert training for law enforcement, and equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

"(vii) training on the use of alcohol and drug screening and brief intervention;

"(viii) training for and implementation of impaired driving assessment programs or other tools designed to increase the probability of identifying the recidivism risk of a person convicted of driving under the influence of alcohol, drugs, or a combination of alcohol and drugs and to determine the most effective mental health or substance abuse treatment or sanction that will reduce such risk;

"(ix) developing impaired driving information systems; and

"(x) costs associated with a 24–7 sobriety program.

"(C) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification and may use not more than 50 percent of funds made available under this subsection for any project or activity eligible for funding under section 402. Medium- and high-range States may use funds for any expenditure designed to reduce impaired driving based on problem identification upon approval by the Secretary."; and

(2) by striking paragraph (6)(A) and inserting the following:

"(A) IN GENERAL.—The Secretary shall make a separate grant under this subsection to each State that adopts and is enforcing a law that requires any individual convicted of driving under the influence of alcohol or of driving while intoxicated to receive a restriction on driving privileges that limits the individual to operating only motor vehicles with an ignition interlock installed. Such law may provide limited exceptions for circumstances when—

"(i) a State-certified ignition interlock provider is not available within 100 miles of the individual's residence;

"(ii) the individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual; or

"(iii) the individual is certified by a medical doctor as being unable to provide a deep lung breath sample for analysis by an ignition interlock device.".

(d) DISTRACTED DRIVING GRANTS.—Section 405(e) of title 23, United States Code, is amended to read as follows:

"(e) DISTRACTED DRIVING GRANTS.—

"(1) IN GENERAL.—The Secretary shall award a grant under this subsection to any State that includes distracted driving awareness as part of the State's driver's license examination, and enacts and enforces a law that meets the requirements set forth in paragraphs (2) and (3).

"(2) PROHIBITION ON TEXTING WHILE DRIVING OR STOPPED IN TRAFFIC.—A State law meets the requirements set forth in this paragraph if the law—

"(A) prohibits a driver from texting through a personal wireless communications device while driving or stopped in traffic;

"(B) makes violation of the law a primary offense; and

"(C) establishes a minimum fine for a violation of the law.

"(3) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING OR STOPPED IN TRAFFIC.—A State law meets the requirements set forth in this paragraph if the law—

"(A) prohibits a driver from using a personal wireless communications device while driving or stopped in traffic—

"(i) younger than 18 years of age; or

"(ii) in the learner's permit and intermediate license stages set forth in subsection (g)(2)(B);

"(B) makes violation of the law a primary offense; and

"(C) establishes a minimum fine for a first violation of the law.

"(4) PERMITTED EXCEPTIONS.—A law that meets the requirements set forth in paragraph (2) or (3) may provide exceptions for—

"(A) a driver who uses a personal wireless communications device to contact emergency services;

"(B) emergency services personnel who use a personal wireless communications device while—

"(i) operating an emergency services vehicle; and

"(ii) engaged in the performance of their duties as emergency services personnel;

"(C) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to section 31136 of title 49; and

"(D) any additional exceptions determined by the Secretary through a rulemaking process.

"(5) USE OF GRANT FUNDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), amounts received by a State under this subsection shall be used—

"(i) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

"(ii) for traffic signs that notify drivers about the distracted driving law of the State; or

"(iii) for law enforcement costs related to the enforcement of the distracted driving law.

"(B) FLEXIBILITY.—

"(i) Not more than 50 percent of amounts received by a State under this subsection may be used for any eligible project or activity under section 402.

"(ii) Not more than 75 percent of amounts received by a State under this subsection may be used for any eligible project or activity under section 402 if the State has conformed its distracted driving data to the most recent Model Minimum Uniform Crash Criteria published by the Secretary.

"(6) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts available under this subsection in a fiscal year for distracted driving grants, the Secretary may expend not more than $5,000,000 for the development and placement of broadcast media to reduce distracted driving of motor vehicles, including to support campaigns related to distracted driving that are funded under section 404.

"(7) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

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

"(A) DRIVING.—The term 'driving'—

"(i) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and

"(ii) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

"(B) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term 'personal wireless communications device'—

"(i) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

"(ii) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

"(C) PRIMARY OFFENSE.—The term 'primary offense' means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

"(D) PUBLIC ROAD.—The term 'public road' has the meaning given such term in section 402(c).

"(E) TEXTING.—The term 'texting' means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.".

(e) MOTORCYCLIST SAFETY.—Section 405(f) of title 23, United States Code, is amended—

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

"(2) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009, except that the amount of a grant awarded to a State for a fiscal year may not exceed 25 percent of the amount apportioned to the State under such section for fiscal year 2009.";

(2) in paragraph (4) by adding at the end the following:

"(C) FLEXIBILITY.—Not more than 50 percent of grant funds received by a State under this subsection may be used for any eligible project or activity under section 402 if the State is in the lowest 25 percent of all States for motorcycle deaths per 10,000 motorcycle registrations based on the most recent data that conforms with criteria established by the Secretary."; and

(3) by adding at the end the following:

"(6) SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall update and provide to the States model language for use in traffic safety education courses, driver's manuals, and other driver training materials that provides instruction for drivers of motor vehicles on the importance of sharing the road safely with motorcyclists.".

(f) STATE GRADUATED DRIVER LICENSING INCENTIVE GRANT.—Section 405(g) of title 23, United States Code, is amended to read as follows:

"(g) STATE GRADUATED DRIVER LICENSING INCENTIVE GRANT.—

"(1) GRANTS AUTHORIZED.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in paragraph (2).

"(2) MINIMUM REQUIREMENTS.—

"(A) IN GENERAL.—A State meets the requirements set forth in this paragraph if the State has a graduated driver licensing law that requires novice drivers younger than 18 years of age to comply with the 2-stage licensing process described in subparagraph (B) before receiving an unrestricted driver's license.

"(B) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this subparagraph if the State's driver's license laws comply with the additional requirements under subparagraph (C) and includes—

"(i) a learner's permit stage that—

"(I) is not less than 6 months in duration and remains in effect until the driver reaches not less than 16 years of age;

"(II) contains a prohibition on the driver using a personal wireless communications device (as defined in subsection (e)) while driving except under an exception permitted under subsection (e)(4);

"(III) requires that the driver be accompanied and supervised at all times while operating a motor vehicle by a licensed driver who is—

"(aa) not less than 21 years of age;

"(bb) the driver's parent or guardian; or

"(cc) a State-certified driving instructor; and

"(IV) complies with the additional requirements for a learner's permit stage set forth in subparagraph (C)(i); and

"(ii) an intermediate stage that—

"(I) is not less than 6 months in duration;

"(II) contains a prohibition on the driver using a personal wireless communications device (as defined in subsection (e)) while driving except under an exception permitted under subsection (e)(4);

"(III) for the first 6 months of such stage, restricts driving at night when not supervised by a licensed driver described in clause (i)(III), excluding transportation to work, school, or religious activities, or in the case of an emergency;

"(IV) for a period of not less than 6 months, prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger under 21 years of age unless a licensed driver described in clause (i)(III) is in the vehicle; and

"(V) complies with the additional requirements for an intermediate stage set forth in subparagraph (C)(ii).

"(C) ADDITIONAL REQUIREMENTS.—

"(i) LEARNER'S PERMIT STAGE.—In addition to the requirements of subparagraph (B)(i), a learner's permit stage shall include not less than 2 of the following requirements:

"(I) Passage of a vision and knowledge assessment by a learner's permit applicant prior to receiving a learner's permit.

"(II) The driver completes—

"(aa) a State-certified driver education or training course; or

"(bb) not less than 40 hours of behind-the-wheel training with a licensed driver described in subparagraph (B)(i)(III).

"(III) In addition to any other penalties imposed by State law, the grant of an unrestricted driver's license or advancement to an intermediate stage be automatically delayed for any individual who, during the learner's permit stage, is convicted of a driving-related offense, including—

"(aa) driving while intoxicated;

"(bb) misrepresentation of the individual's age;

"(cc) reckless driving;

"(dd) driving without wearing a seatbelt;

"(ee) speeding; or

"(ff) any other driving-related offense, as determined by the Secretary.

"(ii) INTERMEDIATE STAGE.—In addition to the requirements of subparagraph (B)(ii), an intermediate stage shall include not less than 2 of the following requirements:

"(I) Commencement of such stage after the successful completion of a driving skills test.

"(II) That such stage remain in effect until the driver reaches the age of not less than 17.

"(III) In addition to any other penalties imposed by State law, the grant of an unrestricted driver's license be automatically delayed for any individual who, during the learner's permit stage, is convicted of a driving-related offense, including those described in clause (i)(III).

"(3) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in paragraph (2) shall be deemed by the Secretary to be in compliance with the requirement set forth in paragraph (2) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

"(A) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

"(B) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

"(4) ALLOCATION.—Grant funds allocated to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

"(5) USE OF FUNDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), grant funds received by a State under this subsection shall be used for—

"(i) enforcing a 2-stage licensing process that complies with paragraph (2);

"(ii) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in clause (i);

"(iii) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

"(iv) carrying out other administrative activities that the Secretary considers relevant to the State's 2-stage licensing process; or

"(v) carrying out a teen traffic safety program described in section 402(m).

"(B) FLEXIBILITY.—

"(i) Not more than 75 percent of grant funds received by a State under this subsection may be used for any eligible project or activity under section 402.

"(ii) Not more than 100 percent of grant funds received by a State under this subsection may be used for any eligible project or activity under section 402, if the State is in the lowest 25 percent of all States for the number of drivers under age 18 involved in fatal crashes in the State per the total number of drivers under age 18 in the State based on the most recent data that conforms with criteria established by the Secretary.".

(g) NONMOTORIZED SAFETY.—Section 405 of title 23, United States Code, is amended by adding at the end the following:

"(h) NONMOTORIZED SAFETY.—

"(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary shall award grants to States for the purpose of decreasing pedestrian and bicycle fatalities and injuries that result from crashes involving a motor vehicle.

"(2) FEDERAL SHARE.—The Federal share of the cost of a project carried out by a State using amounts from a grant awarded under this subsection may not exceed 80 percent.

"(3) ELIGIBILITY.—A State shall receive a grant under this subsection in a fiscal year if the annual combined pedestrian and bicycle fatalities in the State exceed 15 percent of the total annual crash fatalities in the State, based on the most recently reported final data from the Fatality Analysis Reporting System.

"(4) USE OF GRANT AMOUNTS.—Grant funds received by a State under this subsection may be used for—

"(A) training of law enforcement officials on State laws applicable to pedestrian and bicycle safety;

"(B) enforcement mobilizations and campaigns designed to enforce State traffic laws applicable to pedestrian and bicycle safety; and

"(C) public education and awareness programs designed to inform motorists, pedestrians, and bicyclists of State traffic laws applicable to pedestrian and bicycle safety.

"(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.".

SEC. 4006. PROHIBITION ON FUNDS TO CHECK HELMET USAGE OR CREATE RELATED 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 a program or activity to check helmet usage, including checkpoints related to helmet usage, with respect to a motorcycle driver or passenger.

SEC. 4007. MARIJUANA-IMPAIRED DRIVING.

(a) STUDY.—The Secretary, in consultation with the heads of other Federal agencies as appropriate, shall conduct a study on marijuana-impaired driving.

(b) ISSUES TO BE EXAMINED.—In conducting the study, the Secretary shall examine, at a minimum, the following:

(1) Methods to detect marijuana-impaired driving, including devices capable of measuring marijuana levels in motor vehicle operators.

(2) A review of impairment standard research for driving under the influence of marijuana.

(3) Methods to differentiate the cause of a driving impairment between alcohol and marijuana.

(4) State-based policies on marijuana-impaired driving.

(5) The role and extent of marijuana impairment in motor vehicle accidents.

(c) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with other Federal agencies as appropriate, 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.

(2) CONTENTS.—The report shall include, at a minimum, the following:

(A) FINDINGS.—The findings of the Secretary based on the study, including, at a minimum, the following:

(i) An assessment of methodologies and technologies for measuring driver impairment resulting from the use of marijuana, including the use of marijuana in combination with alcohol.

(ii) A description and assessment of the role of marijuana as a causal factor in traffic crashes and the extent of the problem of marijuana-impaired driving.

(iii) A description and assessment of current State laws relating to marijuana-impaired driving.

(iv) A determination whether an impairment standard for drivers under the influence of marijuana is feasible and could reduce vehicle accidents and save lives.

(B) RECOMMENDATIONS.—The recommendations of the Secretary based on the study, including, at a minimum, the following:

(i) Effective and efficient methods for training law enforcement personnel, including drug recognition experts, to detect or measure the level of impairment of a motor vehicle operator who is under the influence of marijuana by the use of technology or otherwise.

(ii) If feasible, an impairment standard for driving under the influence of marijuana.

(iii) Methodologies for increased data collection regarding the prevalence and effects of marijuana-impaired driving.

(d) MARIJUANA DEFINED.—In this section, the term "marijuana" includes all substances containing tetrahydrocannabinol.

SEC. 4008. NATIONAL PRIORITY SAFETY PROGRAM GRANT ELIGIBILITY.

Not later than 60 days after the date on which the Secretary of Transportation awards grants under section 405 of title 23, United States Code, the Secretary shall make available on a publicly available Internet Web site of the Department of Transportation—

(1) an identification of—

(A) the States that were awarded grants under such section;

(B) the States that applied and were not awarded grants under such section; and

(C) the States that did not apply for a grant under such section; and

(2) a list of deficiencies that made a State ineligible for a grant under such section for each State under paragraph (1)(B).

SEC. 4009. DATA COLLECTION.

Section 1906 of SAFETEA–LU (23 U.S.C. 402 note) is amended—

(1) in subsection (a)(1)—

(A) by striking "(A) has enacted" and all that follows through "(B) is maintaining" and inserting "is maintaining"; and

(B) by striking "and any passengers";

(2) by striking subsection (b) and inserting the following:

"(b) USE OF GRANT FUNDS.—A grant received by a State under subsection (a) shall be used by the State for the costs of—

"(1) collecting and maintaining data on traffic stops; and

"(2) evaluating the results of the data.";

(3) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively;

(4) in subsection (c)(2), as so redesignated, by striking "A State" and inserting "On or after October 1, 2015, a State"; and

(5) in subsection (d), as so redesignated—

(A) in the subsection heading by striking "AUTHORIZATION OF APPROPRIATIONS" and inserting "FUNDING";

(B) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—From funds made available under section 403 of title 23, United States Code, the Secretary shall set aside $7,500,000 for each of the fiscal years 2016 through 2021 to carry out this section."; and

(C) in paragraph (2)—

(i) by striking "authorized by" and inserting "made available under"; and

(ii) by striking "percent," and all that follows through the period at the end and inserting "percent.".

SEC. 4010. TECHNICAL CORRECTIONS.

Title 23, United States Code, is amended as follows:

(1) Section 402 is amended—

(A) in subsection (b)(1)—

(i) in subparagraph (C) by striking "paragraph (3)" and inserting "paragraph (2)"; and

(ii) in subparagraph (E)—

(I) by striking "in which" and inserting "for which"; and

(II) by striking "under subsection (f)" and inserting "under subsection (k)"; and

(B) in subsection (k)(5), as redesignated by this Act, by striking "under paragraph (2)(A)" and inserting "under paragraph (3)(A)".

(2) Section 403(e) is amended by striking "chapter 301" and inserting "chapter 301 of title 49".

(3) Section 405 is amended—

(A) in subsection (d)—

(i) in paragraph (5) by striking "under section 402(c)" and inserting "under section 402"; and

(ii) in paragraph (6)(C) by striking "on the basis of the apportionment formula set forth in section 402(c)" and inserting "in proportion to the State's apportionment under section 402 for fiscal year 2009"; and

(B) in subsection (f)(4)(A)(iv)—

(i) by striking "such as the" and inserting "including"; and

(ii) by striking "developed under subsection (g)".

TITLE V—MOTOR CARRIER SAFETY

Subtitle A—Motor Carrier Safety Grant Consolidation

SEC. 5101. GRANTS TO STATES.

(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31102 of title 49, United States Code, is amended to read as follows:

"§ 31102. Motor carrier safety assistance program

"(a) IN GENERAL.—The Secretary of Transportation shall administer a motor carrier safety assistance program funded under section 31104.

"(b) GOAL.—The goal of the program is to ensure that the Secretary, States, local governments, other political jurisdictions, federally recognized Indian tribes, and other persons work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

"(1) making targeted investments to promote safe commercial motor vehicle transportation, including the transportation of passengers and hazardous materials;

"(2) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and in fatalities resulting from such crashes;

"(3) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

"(4) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.

"(c) STATE PLANS.—

"(1) IN GENERAL.—In carrying out the program, the Secretary shall prescribe procedures for a State to submit a multiple-year plan, and annual updates thereto, under which the State agrees to assume responsibility for improving motor carrier safety by adopting and enforcing State regulations, standards,

and orders that are compatible with the regulations, standards, and orders of the Federal Government on commercial motor vehicle safety and hazardous materials transportation safety.

"(2) CONTENTS.—The Secretary shall approve a State plan if the Secretary determines that the plan is adequate to comply with the requirements of this section, and the plan—

"(A) implements performance-based activities, including deployment and maintenance of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;

"(B) designates a lead State commercial motor vehicle safety agency responsible for administering the plan throughout the State;

"(C) contains satisfactory assurances that the lead State commercial motor vehicle safety agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

"(D) contains satisfactory assurances that the State will devote adequate resources to the administration of the plan and enforcement of the regulations, standards, and orders;

"(E) provides a right of entry and inspection to carry out the plan;

"(F) provides that all reports required under this section be available to the Secretary on request;

"(G) provides that the lead State commercial motor vehicle safety agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations that the Secretary prescribes;

"(H) requires all registrants of commercial motor vehicles to demonstrate knowledge of applicable safety regulations, standards, and orders of the Federal Government and the State;

"(I) provides that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standards through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

"(J) ensures that activities described in subsection (h), if financed through grants to the State made under this section, will not diminish the effectiveness of the development and implementation of the programs to improve motor carrier, commercial motor vehicle, and driver safety as described in subsection (b);

"(K) ensures that the lead State commercial motor vehicle safety agency will coordinate the plan, data collection, and information systems with the State highway safety improvement program required under section 148(c) of title 23;

"(L) ensures participation in appropriate Federal Motor Carrier Safety Administration information technology and data systems and other information systems by all appropriate jurisdictions receiving motor carrier safety assistance program funding;

"(M) ensures that information is exchanged among the States in a timely manner;

"(N) 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;

"(O) provides satisfactory assurances that the State will address 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) when conducted with an appropriate commercial motor vehicle inspection, criminal interdiction activities, and appropriate strategies for carrying out those interdiction activities, including interdiction activities that affect the transportation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) and listed in part 1308 of title 21, Code of Federal Regulations, as updated and republished from time to time) by any occupant of a commercial motor vehicle;

"(P) provides that the State has established and dedicated sufficient resources to a program to ensure that—

"(i) the State collects and reports to the Secretary accurate, complete, and timely motor carrier safety data; and

"(ii) the State participates in a national motor carrier safety data correction system prescribed by the Secretary;

"(Q) ensures that the State will cooperate in the enforcement of financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued under those sections;

"(R) ensures consistent, effective, and reasonable sanctions;

"(S) ensures that roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel;

"(T) provides that the State will include in the training manuals for the licensing examination to drive noncommercial motor vehicles and commercial motor vehicles information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

"(U) provides 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 without a registration issued under those sections or to be operated beyond the scope of the motor carrier's registration;

"(V) 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;

"(W) except in the case of an imminent hazard or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a bus station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop (excluding a weigh station);

"(X) ensures that the State will transmit to its roadside inspectors notice of each Federal exemption granted under section 31315(b) of this title and sections 390.23 and 390.25 of title 49, Code of Federal Regulations, and provided to the State by the Secretary, including the name of the person that received the exemption and any terms and conditions that apply to the exemption;

"(Y) except as provided in subsection (d), provides that the State—

"(i) will conduct safety audits of interstate and, at the State's discretion, intrastate new entrant motor carriers under section 31144(g); and

"(ii) if the State authorizes a third party to conduct safety audits under section 31144(g) on its behalf, the State verifies the quality of the work conducted and remains solely responsible for the management and oversight of the activities;

"(Z) provides that the State agrees to fully participate in the performance and registration information systems management under section 31106(b) not later than October 1, 2020, by complying with the conditions for participation under paragraph (3) of that section, or demonstrates to the Secretary an alternative approach for identifying and immobilizing a motor carrier with serious safety deficiencies in a manner that provides an equivalent level of safety;

"(AA) in the case of a State that shares a land border with another country, provides that the State—

"(i) will conduct a border commercial motor vehicle safety program focusing on international commerce that includes enforcement and related projects; or

"(ii) will forfeit all funds calculated by the Secretary based on border-related activities if the State declines to conduct the program described in clause (i) in its plan; and

"(BB) in the case of a State that meets the other requirements of this section and agrees to comply with the requirements established in subsection (l)(3), provides that the State may fund operation and maintenance costs associated with innovative technology deployment under subsection (l)(3) with motor carrier safety assistance program funds authorized under section 31104(a)(1).

"(3) PUBLICATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall publish each approved State multiple-year plan, and each annual update thereto, on a publically accessible Internet Web site of the Department of Transportation not later than 30 days after the date the Secretary approves the plan or update.

"(B) LIMITATION.—Before publishing an approved State multiple-year plan or annual update under subparagraph (A), the Secretary shall redact any information identified by the State that, if disclosed—

"(i) would reasonably be expected to interfere with enforcement proceedings; or

"(ii) would reveal enforcement techniques or procedures that would reasonably be expected to risk circumvention of the law.

"(d) EXCLUSION OF U.S. TERRITORIES.—The requirement that a State conduct safety audits of new entrant motor carriers under subsection (c)(2)(Y) does not apply to a territory of the United States unless required by the Secretary.

"(e) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws, including regulations, with Federal motor carrier safety regulations to be enforced under subsections (b) and (c). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish motor vehicle safety.

"(f) MAINTENANCE OF EFFORT.—

"(1) BASELINE.—Except as provided under paragraphs (2) and (3) and in accordance with section 5106 of the Surface Transportation Reauthorization and Reform Act of 2015, a State plan under subsection (c) shall provide that the total expenditure of amounts of the lead State commercial motor vehicle safety agency responsible for administering the plan will be maintained at a level each fiscal year that is at least equal to—

"(A) the average level of that expenditure for fiscal years 2004 and 2005; or

"(B) the level of that expenditure for the year in which the Secretary implements a new allocation formula under section 5106 of the Surface Transportation Reauthorization and Reform Act of 2015.

"(2) ADJUSTED BASELINE AFTER FISCAL YEAR 2017.—At the request of a State, the Secretary may evaluate additional documentation related to the maintenance of effort and may make reasonable adjustments to the maintenance of effort baseline after the year in which the Secretary implements a new allocation formula under section 5106 of the Surface Transportation Reauthorization and Reform Act of 2015, and this adjusted baseline will replace the maintenance of effort requirement under paragraph (1).

"(3) WAIVERS.—At the request of a State, the Secretary may waive or modify the requirements of this subsection for a total of 1 fiscal year if the Secretary determines that the waiver or modification is reasonable, based on circumstances described by the State, to ensure the continuation of commercial motor vehicle enforcement activities in the State.

"(4) LEVEL OF STATE EXPENDITURES.—In estimating the average level of a State's expenditures under paragraph (1), the Secretary—

"(A) may allow the State to exclude State expenditures for federally sponsored demonstration and pilot programs and strike forces;

"(B) may allow the State to exclude expenditures for activities related to border enforcement and new entrant safety audits; and

"(C) shall require the State to exclude State matching amounts used to receive Federal financing under section 31104.

"(g) USE OF UNIFIED CARRIER REGISTRATION FEES AGREEMENT.—Amounts generated under section 14504a and received by a State and used for motor carrier safety purposes may be included as part of the State's match required under section 31104 or maintenance of effort required by subsection (f).

"(h) USE OF GRANTS TO ENFORCE OTHER LAWS.—When approved as part of a State's plan under subsection (c), the State may use motor carrier safety assistance program funds received under this section—

"(1) if the activities are carried out in conjunction with an appropriate inspection of a commercial motor vehicle to enforce Federal or State commercial motor vehicle safety regulations, for—

"(A) enforcement of commercial motor vehicle size and weight limitations at locations, excluding fixed-weight facilities, such as near 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 and enforcement actions taken as a result of criminal activity, including the trafficking of human beings, in a commercial motor vehicle or by any occupant, including the operator, of the commercial motor 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—

"(A) 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 2004 and 2005; and

"(B) the State does not use more than 10 percent of the basic amount the State receives under a grant awarded under section 31104(a)(1) for enforcement activities relating to noncommercial motor vehicles necessary to promote the safe operation of commercial motor vehicles unless the Secretary determines that a higher percentage will result in significant increases in commercial motor vehicle safety.

"(i) EVALUATION OF PLANS AND AWARD OF GRANTS.—

"(1) AWARDS.—The Secretary shall establish criteria for the application, evaluation, and approval of State plans under this section. Subject to subsection (j), the Secretary may allocate the amounts made available under section 31104(a)(1) among the States.

"(2) OPPORTUNITY TO CURE.—If the Secretary disapproves a plan under this section, the Secretary shall give the State a written explanation of the reasons for disapproval and allow the State to modify and resubmit the plan for approval.

"(j) ALLOCATION OF FUNDS.—

"(1) IN GENERAL.—The Secretary, by regulation, shall prescribe allocation criteria for funds made available under section 31104(a)(1).

"(2) ANNUAL ALLOCATIONS.—On October 1 of each fiscal year, or as soon as practicable thereafter, and after making a deduction under section 31104(c), the Secretary shall allocate amounts made available under section 31104(a)(1) to carry out this section for the fiscal year among the States with plans approved under this section in accordance with the criteria prescribed under paragraph (1).

"(3) ELECTIVE ADJUSTMENTS.—Subject to the availability of funding and notwithstanding fluctuations in the data elements used by the Secretary to calculate the annual allocation amounts, after the creation of a new allocation formula under section 5106 of the Surface Transportation Reauthorization and Reform Act of 2015, the Secretary may not make elective adjustments to the allocation formula that decrease a State's Federal funding levels by more than 3 percent in a fiscal year. The 3 percent limit shall not apply to the withholding provisions of subsection (k).

"(k) PLAN MONITORING.—

"(1) IN GENERAL.—On the basis of reports submitted by the lead State agency responsible for administering a State plan approved under this section and an investigation by the Secretary, the Secretary shall periodically evaluate State implementation of and compliance with the State plan.

"(2) WITHHOLDING OF FUNDS.—

"(A) DISAPPROVAL.—If, after notice and an opportunity to be heard, the Secretary finds that a State plan previously approved under this section is not being followed or has become inadequate to ensure enforcement of State regulations, standards, or orders described in subsection (c)(1), or the State is otherwise not in compliance with the requirements of this section, the Secretary may withdraw approval of the State plan and notify the State. Upon the receipt of such notice, the State plan shall no longer be in effect and the Secretary shall withhold all funding to the State under this section.

"(B) NONCOMPLIANCE WITHHOLDING.—In lieu of withdrawing approval of a State plan under subparagraph (A), the Secretary may, after providing notice to the State and an opportunity to be heard, withhold funding from the State to which the State would otherwise be entitled under this section for the period of the State's noncompliance. In exercising this option, the Secretary may withhold—

"(i) up to 5 percent of funds during the fiscal year that the Secretary notifies the State of its noncompliance;

"(ii) up to 10 percent of funds for the first full fiscal year of noncompliance;

"(iii) up to 25 percent of funds for the second full fiscal year of noncompliance; and

"(iv) not more than 50 percent of funds for the third and any subsequent full fiscal year of noncompliance.

"(3) JUDICIAL REVIEW.—A State adversely affected by a determination under paragraph (2) may seek judicial review under chapter 7 of title 5. Notwith-

standing the disapproval of a State plan under paragraph (2)(A) or the withholding of funds under paragraph (2)(B), the State may retain jurisdiction in an administrative or a judicial proceeding that commenced before the notice of disapproval or withholding if the issues involved are not related directly to the reasons for the disapproval or withholding.

"(l) HIGH PRIORITY PROGRAM.—

"(1) IN GENERAL.—The Secretary shall administer a high priority program funded under section 31104 for the purposes described in paragraphs (2) and (3).

"(2) ACTIVITIES RELATED TO MOTOR CARRIER SAFETY.—The Secretary may make discretionary grants to and enter into cooperative agreements with States, local governments, federally recognized Indian tribes, other political jurisdictions as necessary, and any person to carry out high priority activities and projects that augment motor carrier safety activities and projects planned in accordance with subsections (b) and (c), including activities and projects that—

"(A) increase public awareness and education on commercial motor vehicle safety;

"(B) target unsafe driving of commercial motor vehicles and noncommercial motor vehicles in areas identified as high risk crash corridors;

"(C) improve the safe and secure movement of hazardous materials;

"(D) improve safe transportation of goods and persons in foreign commerce;

"(E) demonstrate new technologies to improve commercial motor vehicle safety;

"(F) support participation in performance and registration information systems management under section 31106(b)—

"(i) for entities not responsible for submitting the plan under subsection (c); or

"(ii) for entities responsible for submitting the plan under subsection (c)—

"(I) before October 1, 2020, to achieve compliance with the requirements of participation; and

"(II) beginning on October 1, 2020, or once compliance is achieved, whichever is sooner, for special initiatives or projects that exceed routine operations required for participation;

"(G) conduct safety data improvement projects—

"(i) that complete or exceed the requirements under subsection (c)(2)(P) for entities not responsible for submitting the plan under subsection (c); or

"(ii) that exceed the requirements under subsection (c)(2)(P) for entities responsible for submitting the plan under subsection (c); and

"(H) otherwise improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations.

"(3) INNOVATIVE TECHNOLOGY DEPLOYMENT GRANT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish an innovative technology deployment grant program to make discretionary grants funded under section 31104(a)(2) to eligible States for the innovative technology deployment of commercial motor vehicle information systems and networks.

"(B) PURPOSES.—The purposes of the program shall be—

"(i) to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial motor vehicle operations, including commercial motor vehicle, commercial driver, and carrier-specific information systems and networks; and

"(ii) to support and maintain commercial motor vehicle information systems and networks—

"(I) to link Federal motor carrier safety information systems with State commercial motor vehicle systems;

"(II) to improve the safety and productivity of commercial motor vehicles and drivers; and

"(III) to reduce costs associated with commercial motor vehicle operations and Federal and State commercial motor vehicle regulatory requirements.

"(C) ELIGIBILITY.—To be eligible for a grant under this paragraph, a State shall—

"(i) have a commercial motor vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level that need to be refined, revised, upgraded, or built to accomplish deployment of commercial motor vehicle information systems and networks capabilities;

"(ii) certify to the Secretary that its commercial motor vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—

"(I) are consistent with the national intelligent transportation systems and commercial motor vehicle information systems and networks architectures and available standards; and

"(II) promote interoperability and efficiency to the extent practicable; and

"(iii) 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 motor vehicle information systems and networks.

"(D) USE OF FUNDS.—Grant funds received under this paragraph may be used—

"(i) for deployment activities and activities to develop new and innovative advanced technology solutions that support commercial motor vehicle information systems and networks;

"(ii) for planning activities, including the development or updating of program or top level design plans in order to become eligible or maintain eligibility under subparagraph (C); and

"(iii) for the operation and maintenance costs associated with innovative technology.

"(E) SECRETARY AUTHORIZATION.—The Secretary is authorized to award a State funding for the operation and maintenance costs associated with innovative technology deployment with funds made available under sections 31104(a)(1) and 31104(a)(2).".

(b) COMMERCIAL MOTOR VEHICLE OPERATORS GRANT PROGRAM.—Section 31103 of title 49, United States Code, is amended to read as follows:

"§ 31103. Commercial motor vehicle operators grant program

"(a) IN GENERAL.—The Secretary shall administer a commercial motor vehicle operators grant program funded under section 31104.

"(b) PURPOSE.—The purpose of the grant program is to train individuals in the safe operation of commercial motor vehicles (as defined in section 31301).

"(c) VETERANS.—In administering grants under this section, the Secretary shall award priority to grant applications for programs to train former members of the armed forces (as defined in section 101 of title 10) in the safe operation of such vehicles.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 31104 of title 49, United States Code, as amended by this Act, is further amended on the effective date set forth in subsection (f) to read as follows:

"§ 31104. Authorization of appropriations

"(a) FINANCIAL ASSISTANCE PROGRAMS.—The following sums are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account):

"(1) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Subject to paragraph (2) and subsection (c), to carry out section 31102—

"(A) $278,242,684 for fiscal year 2017;

"(B) $293,685,550 for fiscal year 2018;

"(C) $308,351,227 for fiscal year 2019;

"(D) $323,798,553 for fiscal year 2020; and

"(E) $339,244,023 for fiscal year 2021.

"(2) HIGH PRIORITY ACTIVITIES PROGRAM.—Subject to subsection (c), to make grants and cooperative agreements under section 31102(l), the Secretary may set aside from amounts made available under paragraph (1) up to—

"(A) $40,798,780 for fiscal year 2017;

"(B) $41,684,114 for fiscal year 2018;

"(C) $42,442,764 for fiscal year 2019;

"(D) $43,325,574 for fiscal year 2020; and

"(E) $44,209,416 for fiscal year 2021.

"(3) COMMERCIAL MOTOR VEHICLE OPERATORS GRANT PROGRAM.—To carry out section 31103—

"(A) $1,000,000 for fiscal year 2017;

"(B) $1,000,000 for fiscal year 2018;

"(C) $1,000,000 for fiscal year 2019;

"(D) $1,000,000 for fiscal year 2020; and

"(E) $1,000,000 for fiscal year 2021.

"(4) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION PROGRAM.—Subject to subsection (c), to carry out section 31313—

"(A) $30,958,536 for fiscal year 2017;

"(B) $31,630,336 for fiscal year 2018;

"(C) $32,206,008 for fiscal year 2019;

"(D) $32,875,893 for fiscal year 2020; and

"(E) $33,546,562 for fiscal year 2021.

"(b) REIMBURSEMENT AND PAYMENT TO RECIPIENTS FOR GOVERNMENT SHARE OF COSTS.—

"(1) IN GENERAL.—Amounts made available under subsection (a) shall be used to reimburse financial assistance recipients proportionally for the Federal Government's share of the costs incurred.

"(2) REIMBURSEMENT AMOUNTS.—The Secretary shall reimburse a recipient, in accordance with a financial assistance agreement made under section 31102, 31103, or 31313, an amount that is at least 85 percent of the costs incurred by the recipient in a fiscal year in developing and implementing programs under such sections. The Secretary shall pay the recipient an amount not more than the Federal Government share of the total costs approved by the Federal Government in the financial assistance agreement. The Secretary shall include a recipient's in-kind contributions in determining the reimbursement.

"(3) VOUCHERS.—Each recipient shall submit vouchers at least quarterly for costs the recipient incurs in developing and implementing programs under sections 31102, 31103, and 31313.

"(c) DEDUCTIONS FOR PARTNER TRAINING AND PROGRAM SUPPORT.—On October 1 of each fiscal year, or as soon after that date as practicable, the Secretary may deduct from amounts made available under paragraphs (1), (2), and (4) of subsection (a) for that fiscal year not more than 1.50 percent of those amounts for partner training and program support in that fiscal year. The Secretary shall use at least 75 percent of those deducted amounts to train non-Federal Government employees and to develop related training materials in carrying out such programs.

"(d) GRANTS AND COOPERATIVE AGREEMENTS AS CONTRACTUAL OBLIGATIONS.—The approval of a financial assistance agreement by the Secretary under section 31102, 31103, or 31313 is a contractual obligation of the Federal Government for payment of the Federal Government's share of costs in carrying out the provisions of the grant or cooperative agreement.

"(e) ELIGIBLE ACTIVITIES.—The Secretary shall establish criteria for eligible activities to be funded with financial assistance agreements under this section and publish those criteria in a notice of funding availability before the financial assistance program application period.

"(f) PERIOD OF AVAILABILITY OF FINANCIAL ASSISTANCE AGREEMENT FUNDS FOR RECIPIENT EXPENDITURES.—The period of availability for a recipient to expend funds under a grant or cooperative agreement authorized under subsection (a) is as follows:

"(1) For grants made for carrying out section 31102, other than section 31102(l), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next fiscal year.

"(2) For grants made or cooperative agreements entered into for carrying out section 31102(l)(2), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 2 fiscal years.

"(3) For grants made for carrying out section 31102(l)(3), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 4 fiscal years.

"(4) For grants made for carrying out section 31103, for the fiscal year in which the Secretary approves the financial assistance agreement and for the next fiscal year.

"(5) For grants made or cooperative agreements entered into for carrying out section 31313, for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 4 fiscal years.

"(g) CONTRACT AUTHORITY; INITIAL DATE OF AVAILABILITY.—Amounts authorized from the Highway Trust Fund (other than the Mass Transit 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.

"(h) AVAILABILITY OF FUNDING.—Amounts made available under this section shall remain available until expended.".

(d) CLERICAL AMENDMENT.—The analysis for chapter 311 of title 49, United States Code, is amended by striking the items relating to sections 31102, 31103, and 31104 and inserting the following:

"31102. Motor carrier safety assistance program.

"31103. Commercial motor vehicle operators grant program.
"31104. Authorization of appropriations.".

(e) CONFORMING AMENDMENTS.—

(1) SAFETY FITNESS OF OWNERS AND OPERATOR; SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g) of title 49, United States Code, is amended by striking paragraph (5).

(2) INFORMATION SYSTEMS; PERFORMANCE AND REGISTRATION INFORMATION PROGRAM.—Section 31106(b) of title 49, United States Code, is amended by striking paragraph (4).

(3) BORDER ENFORCEMENT GRANTS.—Section 31107 of title 49, United States Code, and the item relating to that section in the analysis for chapter 311 of that title, are repealed.

(4) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.—Section 31109 of title 49, United States Code, and the item relating to that section in the analysis for chapter 311 of that title, are repealed.

(5) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—Section 4126 of SAFETEA–LU (49 U.S.C. 31106 note), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(6) SAFETY DATA IMPROVEMENT PROGRAM.—Section 4128 of SAFETEA–LU (49 U.S.C. 31100 note), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(7) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134 of SAFETEA–LU (49 U.S.C. 31301 note), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(8) MAINTENANCE OF EFFORT AS CONDITION ON GRANTS TO STATES.—Section 103(c) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31102 note) is repealed.

(9) STATE COMPLIANCE WITH CDL REQUIREMENTS.—Section 103(e) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31102 note) is repealed.

(10) BORDER STAFFING STANDARDS.—Section 218(d) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31133 note) is amended—

(A) in paragraph (1) by striking "section 31104(f)(2)(B) of title 49, United States Code" and inserting "section 31104(a)(1) of title 49, United States Code"; and

(B) by striking paragraph (3).

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2016.

(g) TRANSITION.—Notwithstanding the amendments made by this section, the Secretary shall carry out sections 31102, 31103, 31104 of title 49, United States Code, and any sections repealed under subsection (e), as necessary, as those sections were in effect on the day before October 1, 2016, with respect to applications for grants, cooperative agreements, or contracts under those sections submitted before October 1, 2016.

SEC. 5102. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT.

Section 31106(b) of title 49, United States Code, is amended in the subheading by striking "PROGRAM" and inserting "SYSTEMS MANAGEMENT".

SEC. 5103. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subchapter I of chapter 311 of title 49, United States Code, is amended by adding at the end the following:

"§ 31110. Authorization of appropriations

"(a) ADMINISTRATIVE EXPENSES.—There is 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—

"(1) $259,000,000 for fiscal year 2016;
"(2) $259,000,000 for fiscal year 2017;
"(3) $259,000,000 for fiscal year 2018;
"(4) $259,000,000 for fiscal year 2019;
"(5) $259,000,000 for fiscal year 2020; and
"(6) $259,000,000 for fiscal year 2021.

"(b) USE OF FUNDS.—The funds authorized by this section shall be used for—

"(1) personnel costs;
"(2) administrative infrastructure;
"(3) rent;
"(4) information technology;

"(5) programs for research and technology, information management, regulatory development, and the administration of performance and registration information systems management under section 31106(b);

"(6) programs for outreach and education under subsection (c);

"(7) other operating expenses;

"(8) conducting safety reviews of new operators; and

"(9) such other expenses as may from time to time become necessary to implement statutory mandates of the Federal Motor Carrier Safety Administration not funded from other sources.

"(c) OUTREACH AND EDUCATION PROGRAM.—

"(1) IN GENERAL.—The Secretary may conduct, through any combination of grants, contracts, cooperative agreements, and other activities, an internal and external outreach and education program to be administered by the Administrator of the Federal Motor Carrier Safety Administration.

"(2) FEDERAL SHARE.—The Federal share of an outreach and education project for which a grant, contract, or cooperative agreement is made under this subsection may be up to 100 percent of the cost of the project.

"(3) FUNDING.—From amounts made available under subsection (a), the Secretary shall make available not more than $4,000,000 each fiscal year.

"(d) CONTRACT AUTHORITY; INITIAL DATE OF AVAILABILITY.—Amounts authorized from the Highway Trust Fund (other than the Mass Transit 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.

"(e) FUNDING AVAILABILITY.—Amounts made available under this section shall remain available until expended.

"(f) CONTRACTUAL OBLIGATION.—The approval of funds by the Secretary under this section is a contractual obligation of the Federal Government for payment of the Federal Government's share of costs.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 311 of title 49, United States Code, is amended by adding at the end of the items relating to subchapter I the following:

"31110. Authorization of appropriations.".

(c) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE EXPENSES; AUTHORIZATION OF APPROPRIATIONS.—Section 31104 of title 49, United States Code, is amended—

(A) by striking subsection (i); and

(B) by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(2) USE OF AMOUNTS MADE AVAILABLE UNDER SUBSECTION (i).—Section 4116(d) of SAFETEA–LU (49 U.S.C. 31104 note) is amended by striking "section 31104(i)" and inserting "section 31110".

(3) INTERNAL COOPERATION.—Section 31161 of title 49, United States Code, is amended by striking "section 31104(i)" and inserting "section 31110".

(4) SAFETEA–LU; OUTREACH AND EDUCATION.—Section 4127 of SAFETEA–LU (119 Stat. 1741; Public Law 109–59), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

SEC. 5104. COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.

(a) IN GENERAL.—Section 31313 of title 49, United States Code, is amended to read as follows:

"§ 31313. Commercial driver's license program implementation financial assistance program

"(a) IN GENERAL.—The Secretary of Transportation shall administer a financial assistance program for commercial driver's license program implementation for the purposes described in paragraphs (1) and (2).

"(1) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION GRANTS.—In carrying out the program, the Secretary may make a grant to a State agency in a fiscal year—

"(A) to assist the State in complying with the requirements of section 31311;

"(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311, to improve the State's 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 implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32303(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012 (49 U.S.C. 31304 note).

"(2) PRIORITY ACTIVITIES.—The Secretary may make a grant to or enter into a cooperative agreement with a State agency, local government, or any person in a fiscal year for research, development and testing, demonstration projects, public education, and other special activities and projects relating to commercial drivers licensing and motor vehicle safety that—

"(A) benefit all jurisdictions of the United States;

"(B) address national safety concerns and circumstances;

"(C) address emerging issues relating to commercial driver's license improvements;

"(D) support innovative ideas and solutions to commercial driver's license program issues; or

"(E) address other commercial driver's license issues, as determined by the Secretary.

"(b) PROHIBITIONS.—A recipient may not use financial assistance funds awarded under this section to rent, lease, or buy land or buildings.

"(c) REPORT.—The Secretary shall issue an annual report on the activities carried out under this section.

"(d) APPORTIONMENT.—All amounts made available to carry out this section for a fiscal year shall be apportioned to a recipient described in subsection (a)(2) according to criteria prescribed by the Secretary.

"(e) FUNDING.—For fiscal years beginning after September 30, 2016, this section shall be funded under section 31104.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 313 of title 49, United States Code, is amended by striking the item relating to section 31313 and inserting the following:

"31313. Commercial driver's license program implementation financial assistance program.".

SEC. 5105. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY PROGRAMS FOR FISCAL YEAR 2016.

(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM GRANT EXTENSION.—Section 31104(a) of title 49, United States Code, is amended by striking paragraphs (10) and (11) and inserting the following:

"(10) $218,000,000 for fiscal year 2015; and

"(11) $241,480,000 for fiscal year 2016.".

(b) EXTENSION OF GRANT PROGRAMS.—Section 4101(c) of SAFETEA–LU (119 Stat. 1715; Public Law 109–59) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—The following sums are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account):

"(1) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—For carrying out the commercial driver's license program improvement grants program under section 31313 of title 49, United States Code, $30,480,000 for fiscal year 2016.

"(2) BORDER ENFORCEMENT GRANTS.—For border enforcement grants under section 31107 of that title $32,512,000 for fiscal year 2016.

"(3) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT GRANT PROGRAM.—For the performance and registration information systems management grant program under section 31109 of that title $5,080,000 for fiscal year 2016.

"(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 $25,400,000 for fiscal year 2016.

"(5) SAFETY DATA IMPROVEMENT GRANTS.—For safety data improvement grants under section 4128 of this Act $3,048,000 for fiscal year 2016.".

(c) HIGH-PRIORITY ACTIVITIES.—Section 31104(j)(2) of title 49, United States Code, as redesignated by this subtitle, is amended by striking "2015" the first place it appears and inserting "2016".

(d) NEW ENTRANT AUDITS.—Section 31144(g)(5)(B) of title 49, United States Code, is amended to read as follows:

"(B) SET ASIDE.—The Secretary shall set aside from amounts made available under section 31104(a) up to $32,000,000 for fiscal year 2016 for audits of new entrant motor carriers conducted under this paragraph.".

(e) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134(c) of SAFETEA–LU (49 U.S.C. 31301 note) is amended to read as follows:

"(c) FUNDING.—From amounts made available under section 31110 of title 49, United States Code, the Secretary shall make available, $1,000,000 for fiscal year 2016 to carry out this section.".

(f) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—

(1) IN GENERAL.—Section 4126 of SAFETEA–LU (49 U.S.C. 31106 note; 119 Stat. 1738; Public Law 109–59) is amended—

(A) in subsection (c)—

(i) in paragraph (2) by adding at the end the following: "Funds deobligated by the Secretary from previous year grants shall not be counted toward the $2,500,000 maximum aggregate amount for core deployment."; and

(ii) in paragraph (3) by adding at the end the following: "Funds may also be used for planning activities, including the development or updating of program or top level design plans."; and

(B) in subsection (d)(4) by adding at the end the following: "Funds may also be used for planning activities, including the development or updating of program or top level design plans.".

(2) INNOVATIVE TECHNOLOGY DEPLOYMENT PROGRAM.—For fiscal year 2016, the commercial vehicle information systems and networks deployment program under section 4126 of SAFETEA–LU (119 Stat. 1738; Public Law 109–59) may also be referred to as the innovative technology deployment program.

SEC. 5106. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM ALLOCATION.

(a) WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a motor carrier safety assistance program formula working group (in this section referred to as the "working group").

(2) MEMBERSHIP.—

(A) IN GENERAL.—Subject to subparagraph (B), the working group shall consist of representatives of the following:

(i) The Federal Motor Carrier Safety Administration.

(ii) The lead State commercial motor vehicle safety agencies responsible for administering the plan required by section 31102 of title 49, United States Code.

(iii) An organization representing State agencies responsible for enforcing a program for inspection of commercial motor vehicles.

(iv) Such other persons as the Secretary considers necessary.

(B) COMPOSITION.—Representatives of State commercial motor vehicle safety agencies shall comprise at least 51 percent of the membership.

(3) NEW ALLOCATION FORMULA.—The working group shall analyze requirements and factors for the establishment of a new allocation formula for the motor carrier assistance program under section 31102 of title 49, United States Code.

(4) RECOMMENDATION.—Not later than 1 year after the date the working group is established under paragraph (1), the working group shall make a recommendation to the Secretary regarding a new allocation formula for the motor carrier assistance program.

(5) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established under this subsection.

(6) PUBLICATION.—The Administrator of the Federal Motor Carrier Safety Administration shall publish on a publicly accessible Internet Web site of the Federal Motor Carrier Safety Administration—

(A) summaries of the meetings of the working group; and

(B) the final recommendation of the working group provided to the Secretary.

(b) NOTICE OF PROPOSED RULEMAKING.—After receiving the recommendation of the working group under subsection (a)(4), the Secretary shall publish in the Federal Register a notice seeking public comment on the establishment of a new allocation formula for the motor carrier safety assistance program.

(c) BASIS FOR FORMULA.—The Secretary shall ensure that the new allocation formula for the motor carrier assistance program is based on factors that reflect, at a minimum—

(1) the relative needs of the States to comply with section 31102 of title 49, United States Code;

(2) the relative administrative capacities of and challenges faced by States in complying with that section;

(3) the average of each State's new entrant motor carrier inventory for the 3-year period prior to the date of enactment of this Act;

(4) the number of international border inspection facilities and border crossings by commercial vehicles in each State; and

(5) any other factors the Secretary considers appropriate.

(d) FUNDING AMOUNTS PRIOR TO DEVELOPMENT OF NEW ALLOCATION FORMULA.—

(1) INTERIM FORMULA.—Prior to the development of the new allocation formula for the motor carrier assistance program, the Secretary may calculate the interim funding amounts for that program in fiscal year 2017 (and later fiscal years, as necessary) under section 31104(a)(1) of title 49, United States Code, as amended by this subtitle, by using the following methodology:

(A) The Secretary shall calculate the funding amount to a State using the allocation formula the Secretary used to award motor carrier safety assistance program funding in fiscal year 2016 under section 31102 of title 49, United States Code.

(B) The Secretary shall average the funding awarded or other equitable amounts to a State in fiscal years 2013, 2014, and 2015 for—

(i) border enforcement grants under section 31107 of title 49, United States Code; and

(ii) new entrant audit grants under section 31144(g)(5) of that title.

(C) The Secretary shall add the amounts calculated in subparagraphs (A) and (B).

(2) ADJUSTMENTS.—Subject to the availability of funding and notwithstanding fluctuations in the data elements used by the Secretary, the initial amounts resulting from the calculation described in paragraph (1) shall be adjusted to ensure that, for each State, the amount shall not be less than 97 percent of the average amount of funding received or other equitable amounts in fiscal years 2013, 2014, and 2015 for—

(A) motor carrier safety assistance program funds awarded to the State under section 31102 of title 49, United States Code;

(B) border enforcement grants awarded to the State under section 31107 of title 49, United States Code; and

(C) new entrant audit grants awarded to the State under section 31144(g)(5) of title 49, United States Code.

(3) IMMEDIATE RELIEF.—In developing the new allocation formula, the Secretary shall terminate the withholding of motor carrier assistance program funds from a State for at least 3 fiscal years if the State was subject to the withholding of such funds for matters of noncompliance immediately prior to the date of enactment of this Act.

(4) FUTURE WITHHOLDINGS.—Beginning on the date that the new allocation formula for the motor carrier assistance program is implemented, the Secretary shall impose all future withholdings in accordance with section 31102(k) of title 49, United States Code, as amended by this subtitle.

(e) TERMINATION OF WORKING GROUP.—The working group established under subsection (a) shall terminate on the date of the implementation of a new allocation formula for the motor carrier safety assistance program.

SEC. 5107. MAINTENANCE OF EFFORT CALCULATION.

(a) BEFORE NEW ALLOCATION FORMULA.—

(1) FISCAL YEAR 2017.—If a new allocation formula for the motor carrier safety assistance program has not been established under this subtitle for fiscal year 2017, the Secretary shall calculate for fiscal year 2017 the maintenance of effort baseline required under section 31102(f) of title 49, United States Code, as amended by this subtitle, by averaging the expenditures for fiscal years 2004 and 2005 required by section 31102(b)(4) of title 49, United States Code, as that section was in effect on the day before the date of enactment of this Act.

(2) SUBSEQUENT FISCAL YEARS.—The Secretary may use the methodology for calculating the maintenance of effort baseline specified in paragraph (1) for fiscal year 2018 and subsequent fiscal years if a new allocation formula for the motor carrier safety assistance program has not been established for that fiscal year.

(b) BEGINNING WITH NEW ALLOCATION FORMATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3)(B), beginning on the date that a new allocation formula for the motor carrier safety assistance program is established under this subtitle, upon the request of a State, the Secretary may waive or modify the baseline maintenance of effort required of the State by section 31102(e) of title 49, United States Code, as amended by this subtitle, for the purpose of establishing a new baseline maintenance of effort if the Secretary determines that a waiver or modification—

(A) is equitable due to reasonable circumstances;

(B) will ensure the continuation of commercial motor vehicle enforcement activities in the State; and

(C) is necessary to ensure that the total amount of State maintenance of effort and matching expenditures required under sections 31102 and 31104 of title 49, United States Code, as amended by this subtitle, does not exceed a sum greater than the average of the total amount of State maintenance of effort and matching expenditures required under those sections for the 3 fiscal years prior to the date of enactment of this Act.

(2) ADJUSTMENT METHODOLOGY.—If requested by a State, the Secretary may modify the maintenance of effort baseline referred to in paragraph (1) for the State according to the following methodology:

(A) The Secretary shall establish the maintenance of effort baseline for the State using the average baseline of fiscal years 2004 and 2005, as required by section 31102(b)(4) of title 49, United States Code, as that section was in effect on the day before the date of enactment of this Act.

(B) The Secretary shall calculate the average required match by a lead State commercial motor vehicle safety agency for fiscal years 2013, 2014, and 2015 for motor carrier safety assistance grants established at 20 percent by section 31103 of title 49, United States Code, as that section was in effect on the day before the date of enactment of this Act.

(C) The Secretary shall calculate the estimated match required under section 31104(b) of title 49, United States Code, as amended by this subtitle.

(D) The Secretary shall subtract the amount in subparagraph (B) from the amount in subparagraph (C) and—

(i) if the number is greater than 0, the Secretary shall subtract the number from the amount in subparagraph (A); or

(ii) if the number is not greater than 0, the Secretary shall calculate the maintenance of effort using the methodology in subparagraph (A).

(3) MAINTENANCE OF EFFORT AMOUNT.—

(A) IN GENERAL.—The Secretary shall use the amount calculated under paragraph (2) as the baseline maintenance of effort required under section 31102(f) of title 49, United States Code, as amended by this subtitle.

(B) DEADLINE.—If a State does not request a waiver or modification under this subsection before September 30 during the first fiscal year that the Secretary implements a new allocation formula for the motor carrier safety assistance program under this subtitle, the Secretary shall calculate the maintenance of effort using the methodology described in paragraph (2)(A).

(4) MAINTENANCE OF EFFORT DESCRIBED.—The maintenance of effort calculated under this section is the amount required under section 31102(f) of title 49, United States Code, as amended by this subtitle.

(c) TERMINATION OF EFFECTIVENESS.—The authority of the Secretary under this section shall terminate effective on the date that a new maintenance of effort baseline is calculated based on a new allocation formula for the motor carrier safety assistance program implemented under section 31102 of title 49, United States Code.

Subtitle B—Federal Motor Carrier Safety Administration Reform

PART I—REGULATORY REFORM

SEC. 5201. NOTICE OF CANCELLATION OF INSURANCE.

Section 13906(e) of title 49, United States Code, is amended by inserting "or suspend" after "revoke".

SEC. 5202. REGULATIONS.

Section 31136 of title 49, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g) and transferring such subsection to appear at the end of section 31315 of such title; and

(2) by adding at the end the following:

"(f) REGULATORY IMPACT ANALYSIS.—Within each regulatory impact analysis of a proposed or final rule issued by the Federal Motor Carrier Safety Administration, the Secretary shall, whenever practicable—

"(1) consider the effects of the proposed or final rule on different segments of the motor carrier industry;

"(2) formulate estimates and findings based on the best available science; and

"(3) utilize available data specific to the different types of motor carriers, including small and large carriers, and drivers that will be impacted by the proposed or final rule.

"(g) PUBLIC PARTICIPATION.—

"(1) IN GENERAL.—If a proposed rule promulgated under this part is likely to lead to the promulgation of a major rule, the Secretary, before promulgating such proposed rule, shall—

"(A) issue an advance notice of proposed rulemaking; or

"(B) proceed with a negotiated rulemaking.

"(2) REQUIREMENTS.—Each advance notice of proposed rulemaking issued under paragraph (1) shall—

"(A) identify the need for a potential regulatory action;

"(B) identify and request public comment on the best available science or technical information relevant to analyzing potential regulatory alternatives;

"(C) request public comment on the available data and costs with respect to regulatory alternatives reasonably likely to be considered as part of the rulemaking; and

"(D) request public comment on available alternatives to regulation.

"(3) WAIVER.—This subsection does not apply to a proposed rule if the Secretary, for good cause, finds (and incorporates the finding and a brief statement of reasons for such finding in the proposed or final rule) that an advance notice of proposed rulemaking is impracticable, unnecessary, or contrary to the public interest.

"(h) REVIEW OF RULES.—

"(1) IN GENERAL.—Once every 5 years, the Secretary shall conduct a review of regulations issued under this part.

"(2) SCHEDULE.—At the beginning of each 5-year review period, the Secretary shall publish a schedule that sets forth the plan for completing the review under paragraph (1) within 5 years.

"(3) NOTIFICATION OF CHANGES.—During each review period, the Secretary shall address any changes to the schedule published under paragraph (2) and notify the public of such changes.

"(4) CONSIDERATION OF PETITIONS.—In conducting a review under paragraph (1), the Secretary shall consider petitions for regulatory action under this part received by the Administrator of the Federal Motor Carrier Safety Administration.

"(5) ASSESSMENT.—At the conclusion of each review under paragraph (1), the Secretary shall publish on a publicly accessible Internet Web site of the Department of Transportation an assessment that includes—

"(A) an inventory of the regulations issued during the 5-year period ending on the date on which the assessment is published;

"(B) a determination of whether the regulations are—

"(i) consistent and clear;

"(ii) current with the operational realities of the motor carrier industry; and

"(iii) uniformly enforced; and

"(C) an assessment of whether the regulations continue to be necessary.

"(6) RULEMAKING.—Not later than 2 years after the completion of each review under this subsection, the Secretary shall initiate a rulemaking to amend regulations as necessary to address the determinations made under paragraph (5)(B) and the results of the assessment under paragraph (5)(C).

"(i) RULE OF CONSTRUCTION.—Nothing in subsection (f) or (g) may be construed to limit the contents of an advance notice of proposed rulemaking.".

SEC. 5203. GUIDANCE.

(a) IN GENERAL.—

(1) DATE OF ISSUANCE AND POINT OF CONTACT.—Each guidance document issued by the Federal Motor Carrier Safety Administration shall have a date of issuance or a date of revision, as applicable, and shall include the name and contact information of a point of contact at the Administration who can respond to questions regarding the guidance.

(2) PUBLIC ACCESSIBILITY.—

(A) IN GENERAL.—Each guidance document issued or revised by the Federal Motor Carrier Safety Administration shall be published on a publicly accessible Internet Web site of the Department on the date of issuance or revision.

(B) REDACTION.—The Administrator of the Federal Motor Carrier Safety Administration may redact from a guidance document published under sub-

paragraph (A) any information that would reveal investigative techniques that would compromise Administration enforcement efforts.

(3) INCORPORATION INTO REGULATIONS.—Not later than 5 years after the date on which a guidance document is published under paragraph (2) or during an applicable review under subsection (c), whichever is earlier, the Secretary shall revise regulations to incorporate the guidance document to the extent practicable.

(4) REISSUANCE.—If a guidance document is not incorporated into regulations in accordance with paragraph (3), the Administrator shall—

(A) reissue an updated version of the guidance document; and

(B) review and reissue an updated version of the guidance document every 5 years until the date on which the guidance document is removed or incorporated into applicable regulations.

(b) INITIAL REVIEW.—Not later than 1 year after the date of enactment of this Act, the Administrator shall review all guidance documents published under subsection (a) to ensure that such documents are current, are readily accessible to the public, and meet the standards specified in subparagraphs (A), (B), and (C) of subsection (c)(1).

(c) REGULAR REVIEW.—

(1) IN GENERAL.—Subject to paragraph (2), not less than once every 5 years, the Administrator shall conduct a comprehensive review of the guidance documents issued by the Federal Motor Carrier Safety Administration to determine whether such documents are—

(A) consistent and clear;

(B) uniformly and consistently enforced; and

(C) still necessary.

(2) NOTICE AND COMMENT.—Prior to beginning a review under paragraph (1), the Administrator shall publish in the Federal Register a notice and request for comment that solicits input from stakeholders on which guidance documents should be updated or eliminated.

(3) REPORT.—

(A) IN GENERAL.—Not later than 60 days after the date on which a review under paragraph (1) is completed, the Administrator shall publish on a publicly accessible Internet Web site of the Department a report detailing the review and a full inventory of the guidance documents of the Administration.

(B) CONTENTS.—A report under subparagraph (A) shall include a summary of the response of the Administration to each comment received under paragraph (2).

(d) GUIDANCE DOCUMENT DEFINED.—In this section, the term "guidance document" means a document issued by the Federal Motor Carrier Safety Administration that—

(1) provides an interpretation of a regulation of the Administration; or

(2) includes an enforcement policy of the Administration.

SEC. 5204. PETITIONS.

(a) IN GENERAL.—The Administrator of the Federal Motor Carrier Safety Administration shall—

(1) publish on a publicly accessible Internet Web site of the Department a summary of all petitions for regulatory action submitted to the Administration;

(2) prioritize the petitions submitted based on the likelihood of safety improvements resulting from the regulatory action requested;

(3) not later than 180 days after the date a summary of a petition is published under paragraph (1), formally respond to such petition by indicating whether the Administrator will accept, deny, or further review the petition;

(4) prioritize responses to petitions consistent with a response's potential to reduce crashes, improve enforcement, and reduce unnecessary burdens; and

(5) not later than 60 days after the date of receipt of a petition, publish on a publicly accessible Internet Web site of the Department an updated inventory of the petitions described in paragraph (1), including any applicable disposition information for those petitions.

(b) PETITION DEFINED.—In this section, the term "petition" means a request for a new regulation, a regulatory interpretation or clarification, or a review of a regulation to eliminate or modify an obsolete, ineffective, or overly burdensome regulation.

PART II—COMPLIANCE, SAFETY, ACCOUNTABILITY REFORM

SEC. 5221. CORRELATION STUDY.

(a) IN GENERAL.—The Administrator of the Federal Motor Carrier Safety Administration (referred to in this part as the "Administrator") shall commission the National Research Council of the National Academies to conduct a study of—

(1) the Compliance, Safety, Accountability program of the Federal Motor Carrier Safety Administration (referred to in this part as the "CSA program"); and

(2) the Safety Measurement System utilized by the CSA program (referred to in this part as the "SMS").

(b) SCOPE OF STUDY.—In carrying out the study commissioned pursuant to subsection (a), the National Research Council—

(1) shall analyze—

(A) the accuracy with which the Behavior Analysis and Safety Improvement Categories (referred to in this part as "BASIC")—

(i) identify high risk carriers; and

(ii) predict or are correlated with future crash risk, crash severity, or other safety indicators for motor carriers;

(B) the methodology used to calculate BASIC percentiles and identify carriers for enforcement, including the weights assigned to particular violations and the tie between crash risk and specific regulatory violations, with respect to accurately identifying and predicting future crash risk for motor carriers;

(C) the relative value of inspection information and roadside enforcement data;

(D) any data collection gaps or data sufficiency problems that may exist and the impact of those gaps and problems on the efficacy of the CSA program;

(E) the accuracy of safety data, including the use of crash data from crashes in which a motor carrier was free from fault;

(F) whether BASIC percentiles for motor carriers of passengers should be calculated differently than for motor carriers of freight;

(G) the differences in the rates at which safety violations are reported to the Federal Motor Carrier Safety Administration for inclusion in the SMS by various enforcement authorities, including States, territories, and Federal inspectors; and

(H) how members of the public use the SMS and what effect making the SMS information public has had on reducing crashes and eliminating unsafe motor carriers from the industry; and

(2) shall consider—

(A) whether the SMS provides comparable precision and confidence, through SMS alerts and percentiles, for the relative crash risk of individual large and small motor carriers;

(B) whether alternatives to the SMS would identify high risk carriers more accurately; and

(C) the recommendations and findings of the Comptroller General of the United States and the Inspector General of the Department, and independent review team reports, issued before the date of enactment of this Act.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit a report containing the results of the study commissioned pursuant to subsection (a) to—

(1) the Committee on Commerce, Science, and Transportation of the Senate;

(2) the Committee on Transportation and Infrastructure of the House of Representatives; and

(3) the Inspector General of the Department.

(d) CORRECTIVE ACTION PLAN.—

(1) IN GENERAL.—Not later than 120 days after the Administrator submits the report under subsection (c), if that report identifies a deficiency or opportunity for improvement in the CSA program or in any element of the SMS, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a corrective action plan that—

(A) responds to the deficiencies or opportunities identified by the report;

(B) identifies how the Federal Motor Carrier Safety Administration will address such deficiencies or opportunities; and

(C) provides an estimate of the cost, including with respect to changes in staffing, enforcement, and data collection, necessary to address such deficiencies or opportunities.

(2) PROGRAM REFORMS.—The corrective action plan submitted under paragraph (1) shall include an implementation plan that—

(A) includes benchmarks;

(B) includes programmatic reforms, revisions to regulations, or proposals for legislation; and

(C) shall be considered in any rulemaking by the Department that relates to the CSA program, including the SMS.

(e) INSPECTOR GENERAL REVIEW.—Not later than 120 days after the Administrator submits a corrective action plan under subsection (d), the Inspector General of the Department shall—

(1) review the extent to which such plan implements—

(A) recommendations contained in the report submitted under subsection (c); and

(B) relevant recommendations issued by the Comptroller General or the Inspector General before the date of enactment of this Act; and

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the responsiveness of the corrective action plan to the recommendations described in paragraph (1).

SEC. 5222. BEYOND COMPLIANCE.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall incorporate into the CSA program a methodology to allow recognition and an improved SMS score for—

(1) the installation of advanced safety equipment;

(2) the use of enhanced driver fitness measures;

(3) the adoption of fleet safety management tools, technologies, and programs; or

(4) other metrics as determined appropriate by the Administrator.

(b) QUALIFICATION.—The Administrator, after providing notice and an opportunity for comment, shall develop technical or other performance standards with respect to advanced safety equipment, enhanced driver fitness measures, fleet safety management tools, technologies, and programs, and other metrics for purposes of subsection (a).

(c) REPORT.—Not later than 18 months after the incorporation of the methodology under subsection (a), the Administrator 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 number of motor carriers receiving recognition and improved scores under such methodology and the safety performance of such carriers.

SEC. 5223. DATA CERTIFICATION.

(a) IN GENERAL.—On and after the date that is 1 day after the date of enactment of this Act, no information regarding analysis of violations, crashes in which a determination is made that the motor carrier or the commercial motor vehicle driver is not at fault, alerts, or the relative percentile for each BASIC developed under the CSA program may be made available to the public (including through requests under section 552 of title 5, United States Code) until the Inspector General of the Department certifies that—

(1) the report required under section 5221(c) has been submitted in accordance with that section;

(2) any deficiencies identified in the report required under section 5221(c) have been addressed;

(3) if applicable, the corrective action plan under section 5221(d) has been implemented;

(4) the Administrator of the Federal Motor Carrier Safety Administration has fully implemented or satisfactorily addressed the issues raised in the report titled "Modifying the Compliance, Safety, Accountability Program Would Improve the Ability to Identify High Risk Carriers" of the Government Accountability Office and dated February 2014 (GAO–14–114); and

(5) the CSA program has been modified in accordance with section 5222.

(b) LIMITATION ON THE USE OF CSA ANALYSIS.—Information regarding alerts and the relative percentile for each BASIC developed under the CSA program may not be used for safety fitness determinations until the Inspector General of the Department makes the certification under subsection (a).

(c) CONTINUED PUBLIC AVAILABILITY OF DATA.—Notwithstanding any other provision of this section, inspection and violation information submitted to the Federal

Motor Carrier Safety Administration by commercial motor vehicle inspectors and qualified law enforcement officials, out-of-service rates, and absolute measures shall remain available to the public.

(d) EXCEPTIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of this section—

(A) the Federal Motor Carrier Safety Administration and State and local commercial motor vehicle enforcement agencies may use the information referred to in subsection (a) for purposes of investigation and enforcement prioritization; and

(B) a motor carrier and a commercial motor vehicle driver may access information referred to in subsection (a) that relates directly to the motor carrier or driver, respectively.

(2) RULE OF CONSTRUCTION.—Nothing in this section may be construed to restrict the official use by State enforcement agencies of the data collected by State enforcement personnel.

SEC. 5224. INTERIM HIRING STANDARD.

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

(1) ENTITY.—The term "entity" means a person acting as—

(A) a shipper, other than an individual shipper (as that term is defined in section 13102 of title 49, United States Code), or a consignee;

(B) a broker or a freight forwarder (as such terms are defined in section 13102 of title 49, United States Code);

(C) a non-vessel-operating common carrier, an ocean freight forwarder, or an ocean transportation intermediary (as such terms are defined in section 40102 of title 46, United States Code);

(D) an indirect air carrier authorized to operate under a Standard Security Program approved by the Transportation Security Administration;

(E) a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations;

(F) an interchange motor carrier subject to paragraphs (1)(B) and (2) of section 13902(i) of title 49, United States Code; or

(G) a warehouse (as defined in section 7–102(13) of the Uniform Commercial Code).

(2) MOTOR CARRIER.—The term "motor carrier" means a motor carrier (as that term is defined in section 13102 of title 49, United States Code) that is subject to Federal motor carrier financial responsibility and safety regulations.

(b) HIRING STANDARD.—Subsection (c) shall only be applicable to entities who, before tendering a shipment, but not more than 35 days before the pickup of the shipment by the hired motor carrier, verify that the motor carrier, at the time of such verification—

(1) is registered with and authorized by the Federal Motor Carrier Safety Administration to operate as a motor carrier, if applicable;

(2) has the minimum insurance coverage required by Federal law; and

(3) has a satisfactory safety fitness determination issued by the Federal Motor Carrier Safety Administration in force.

(c) INTERIM USE OF DATA.—

(1) IN GENERAL.—With respect to an entity who completed a verification under subsection (b), only information regarding the entity's compliance or noncompliance with subsection (b) may be admitted as evidence or otherwise used against the entity in a civil action for damages resulting from a claim of negligent selection or retention of a motor carrier.

(2) EXCLUDED EVIDENCE.—With respect to an entity who completed a verification under subsection (b), motor carrier data (other than the information described in paragraph (1)) created or maintained by the Federal Motor Carrier Safety Administration, including SMS data or analysis of such data, may not be admitted into evidence in a case or proceeding in which it is asserted or alleged that the entity's selection or retention of a motor carrier was negligent.

(d) SUNSET.—This section shall cease to be effective on the date on which the Inspector General of the Department makes the certification under section 5223(a).

Subtitle C—Commercial Motor Vehicle Safety

SEC. 5301. IMPLEMENTING SAFETY REQUIREMENTS.

(a) NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.—If the deadline established under section 31306a(a)(1) of title 49, United States Code, has not been met, not later than 30 days after the date of enactment of this Act, the Secretary of Trans-

portation 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 written notification that—

(1) explains why such deadline has not been met; and

(2) establishes a new deadline for completion of the requirements of such section.

(b) ELECTRONIC LOGGING DEVICES.—If the deadline established under section 31137(a) of title 49, United States Code, has not been met, not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate written notification that—

(1) explains why such deadline has not been met; and

(2) establishes a new deadline for completion of the requirements of such section.

(c) STANDARDS FOR TRAINING.—If the deadline established under section 31305(c) of title 49, United States Code, has not been met, not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate written notification that—

(1) explains why such deadline has not been met; and

(2) establishes a new deadline for completion of the requirements of such section.

(d) FURTHER RESPONSIBILITIES.—If the Secretary determines that a deadline established under subsection (a)(2), (b)(2), or (c)(2) cannot be met, not later than 30 days after the date on which such determination is made, 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 written notification that—

(1) explains why such deadline cannot be met; and

(2) establishes a new deadline for completion of the relevant requirements.

SEC. 5302. WINDSHIELD MOUNTED SAFETY TECHNOLOGY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue regulations to modify section 393.60(e)(1) of title 49, Code of Federal Regulations, to permanently allow the voluntary mounting on the inside of a vehicle's windshield, within the area swept by windshield wipers, of vehicle safety technologies, if the Secretary determines that such mounting is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved without such mounting.

(b) VEHICLE SAFETY TECHNOLOGY DEFINED.—In this section, the term "vehicle safety technology" includes lane departure warning systems, collision avoidance systems, on-board video event recording devices, and any other technology determined appropriate by the Secretary.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter the terms of a short-term exemption from section 393.60(e) of title 49, Code of Federal Regulations, granted and in effect as of the date of enactment of this Act.

SEC. 5303. PRIORITIZING STATUTORY RULEMAKINGS.

The Administrator of the Federal Motor Carrier Safety Administration shall prioritize the completion of each outstanding rulemaking required by statute before beginning any other rulemaking, unless the Secretary determines that there is a significant need for such other rulemaking.

SEC. 5304. SAFETY REPORTING SYSTEM.

(a) 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 Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the cost and feasibility of establishing a self-reporting system for commercial motor vehicle drivers or motor carriers with respect to en route equipment failures.

(b) CONTENTS.—The report required under subsection (a) shall include—

(1) an analysis of—

(A) alternatives for the reporting of equipment failures in real time, including an Internet Web site or telephone hotline;

(B) the ability of a commercial motor vehicle driver or a motor carrier to provide to the Federal Motor Carrier Safety Administration proof of repair of a self-reported equipment failure;

(C) the ability of the Federal Motor Carrier Safety Administration to ensure that self-reported equipment failures proven to be repaired are not used in the calculation of Behavior Analysis and Safety Improvement Category scores;

(D) the ability of roadside inspectors to access self-reported equipment failures;

(E) the cost to establish and administer a self-reporting system;

(F) the ability for a self-reporting system to track individual commercial motor vehicles through unique identifiers; and

(G) whether a self-reporting system would yield demonstrable safety benefits;

(2) an identification of any regulatory or statutory impediments to the implementation of a self-reporting system; and

(3) recommendations on implementing a self-reporting system.

SEC. 5305. NEW ENTRANT SAFETY REVIEW PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct an assessment of the new operator safety review program under section 31144(g) of title 49, United States Code, including the program's effectiveness in reducing crashes, fatalities, and injuries involving commercial motor vehicles and improving commercial motor vehicle safety.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish on a publicly accessible Internet Web site of the Department and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment conducted under subsection (a), including any recommendations for improving the effectiveness of the program (including recommendations for legislative changes).

SEC. 5306. READY MIXED CONCRETE TRUCKS.

A driver of a ready mixed concrete mixer truck is exempt from section 3(a)(3)(ii) of part 395 of title 49, Code of Federal Regulations, if the driver is in compliance with clauses (i), (iii), (iv), and (v) of subsection (e)(1) of section 1 of part 395 of such title (regarding the 100 air-mile logging exemption).

Subtitle D—Commercial Motor Vehicle Drivers

SEC. 5401. OPPORTUNITIES FOR VETERANS.

(a) STANDARDS FOR TRAINING AND TESTING OF VETERAN OPERATORS.—Section 31305 of title 49, United States Code, is amended by adding at the end the following:

"(d) STANDARDS FOR TRAINING AND TESTING OF VETERAN OPERATORS.—

"(1) IN GENERAL.—Not later than December 31, 2016, the Secretary shall modify the regulations prescribed under subsections (a) and (c) to—

"(A) exempt a covered individual from all or a portion of a driving test if the covered individual had experience in the armed forces or reserve components driving vehicles similar to a commercial motor vehicle;

"(B) ensure that a covered individual may apply for an exemption under subparagraph (A) during, at least, the 1-year period beginning on the date on which such individual separates from service in the armed forces or reserve components; and

"(C) credit the training and knowledge a covered individual received in the armed forces or reserve components driving vehicles similar to a commercial motor vehicle for purposes of satisfying minimum standards for training and knowledge.

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

"(A) ARMED FORCES.—The term 'armed forces' has the meaning given that term in section 101(a)(4) of title 10.

"(B) COVERED INDIVIDUAL.—The term 'covered individual' means—

"(i) a former member of the armed forces; or

"(ii) a former member of the reserve components.

"(C) RESERVE COMPONENTS.—The term 'reserve components' means—

"(i) the Army National Guard of the United States;

"(ii) the Army Reserve;

"(iii) the Navy Reserve;

"(iv) the Marine Corps Reserve;

"(v) the Air National Guard of the United States;

"(vi) the Air Force Reserve; and

"(vii) the Coast Guard Reserve.".

(b) IMPLEMENTATION OF THE MILITARY COMMERCIAL DRIVER'S LICENSE ACT.—Not later than December 31, 2015, the Secretary shall issue final regulations to implement the exemption to the domicile requirement under section 31311(a)(12)(C) of title 49, United States Code.

(c) CONFORMING AMENDMENT.—Section 31311(a)(12)(C)(ii) of title 49, United States Code, is amended to read as follows:

"(ii) is an active duty member of—

"(I) the armed forces (as that term is defined in section 101(a)(4) of title 10); or

"(II) the reserve components (as that term is defined in section 31305(d)(2)(C) of this title); and".

SEC. 5402. DRUG-FREE COMMERCIAL DRIVERS.

(a) IN GENERAL.—Section 31306 of title 49, United States Code, is amended—

(1) in subsection (b)(1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) in subparagraph (A) by striking "The regulations shall permit such motor carriers to conduct preemployment testing of such employees for the use of alcohol."; and

(C) by inserting after subparagraph (A) the following:

"(B) The regulations prescribed under subparagraph (A) shall permit motor carriers—

"(i) to conduct preemployment testing of commercial motor vehicle operators for the use of alcohol; and

"(ii) to use hair testing as an acceptable alternative to urine testing—

"(I) in conducting preemployment testing for the use of a controlled substance; and

"(II) in conducting random testing for the use of a controlled substance if the operator was subject to hair testing for preemployment testing.";

(2) in subsection (b)(2)—

(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) shall provide an exemption from hair testing for commercial motor vehicle operators with established religious beliefs that prohibit the cutting or removal of hair."; and

(3) in subsection (c)(2)—

(A) in the matter preceding subparagraph (A) by inserting "for urine testing, and technical guidelines for hair testing," before "including mandatory guidelines";

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

(C) in subparagraph (C) by inserting "and" after the semicolon; and

(D) by adding at the end the following:

"(D) laboratory protocols and cut-off levels for hair testing to detect the use of a controlled substance;".

(b) GUIDELINES.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue scientific and technical guidelines for hair testing as a method of detecting the use of a controlled substance for purposes of section 31306 of title 49, United States Code.

SEC. 5403. CERTIFIED MEDICAL EXAMINERS.

(a) IN GENERAL.—Section 31315(b)(1) of title 49, United States Code, is amended by striking "or section 31136" and inserting ", section 31136, or section 31149(d)(3)".

(b) CONFORMING AMENDMENT.—Section 31149(d)(3) of title 49, United States Code, is amended by inserting ", unless the person issuing the certificate is the subject of an exemption issued under section 31315(b)(1)" before the semicolon.

SEC. 5404. GRADUATED COMMERCIAL DRIVER'S LICENSE PILOT PROGRAM.

(a) TASK FORCE.—

(1) IN GENERAL.—The Secretary shall convene a task force to evaluate and make recommendations to the Secretary on elements for inclusion in a graduated commercial driver's license pilot program that would allow a novice licensed driver between the ages of 19 years and 6 months and 21 years to safely operate a commercial motor vehicle in a limited capacity in interstate commerce between States that enter into a bi-State agreement.

(2) MEMBERSHIP.—The task force convened under paragraph (1) shall include representatives of State motor vehicle administrators, motor carriers, labor organizations, safety advocates, and other stakeholders determined appropriate by the Secretary.

(3) CONSIDERATIONS.—The task force convened under paragraph (1) shall evaluate and make recommendations on the following elements for inclusion in a graduated commercial driver's license pilot program:

(A) A specified length of time for a learner's permit stage.

(B) A requirement that drivers under the age of 21 years be accompanied by experienced drivers over the age of 21 years.

(C) A restriction on travel distances.

(D) A restriction on maximum allowable driving hours.

(E) Mandatory driver training that exceeds the requirements for drivers over the age of 21 years issued by the Secretary under section 31305(c) of title 49, United States Code.

(F) Use of certain safety technologies in the vehicles of drivers under the age of 21 years.

(G) Any other element the task force considers appropriate.

(4) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the task force convened under paragraph (1) shall recommend to the Secretary the elements the task force has determined appropriate for inclusion in a graduated commercial driver's license pilot program.

(b) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after receiving the recommendations of the task force under subsection (a), the Secretary shall establish a graduated commercial driver's license pilot program in accordance with such recommendations and section 31315(c) of title 49, United States Code.

(2) PRE-ESTABLISHMENT REQUIREMENTS.—Prior to the establishment of the pilot program under paragraph (1), the Secretary shall—

(A) submit to Congress a report outlining the recommendations of the task force received under subsection (a); and

(B) publish in the Federal Register, and provide sufficient notice of and an opportunity for public comment on, the—

(i) proposed requirements for State and driver participation in the pilot program, based on the recommendations of the task force and consistent with paragraph (3);

(ii) measures the Secretary will utilize under the pilot program to ensure safety; and

(iii) standards the Secretary will use to evaluate the pilot program, including to determine any changes in the level of motor carrier safety as a result of the pilot program.

(3) PROGRAM ELEMENTS.—The pilot program established under paragraph (1)—

(A) may not allow an individual under the age of 19 years and 6 months to participate;

(B) may not allow a driver between the ages of 19 years and 6 months and 21 years to—

(i) operate a commercial motor vehicle in special configuration; or

(ii) transport hazardous cargo;

(C) shall be carried out in a State (including the District of Columbia) only if the Governor of the State (or the Mayor of the District of Columbia, if applicable) approves an agreement with a contiguous State to allow a licensed driver under the age of 21 years to operate a commercial motor vehicle across both States in accordance with the pilot program;

(D) may not recognize more than 6 agreements described in subparagraph (C);

(E) may not allow more than 10 motor carriers to participate in the pilot program under each agreement described in subparagraph (C);

(F) shall require each motor carrier participating in the pilot program under an agreement described in subparagraph (C) to—

(i) have in effect a satisfactory safety fitness determination that was issued by the Federal Motor Carrier Safety Administration during the 2-year period preceding the date of the Federal Register publication required under paragraph (2)(B); and

(ii) agree to have its safety performance monitored by the Secretary during participation in the pilot program;

(G) shall allow for the revocation of a motor carrier's participation in the pilot program if a State or the Secretary determines that the motor carrier violated the requirements, including safety requirements, of the pilot program; and

(H) shall ensure that a valid graduated commercial driver's license issued by a State that has entered into an agreement described in subparagraph

(C) and is approved by the Secretary to participate in the pilot program is recognized as valid in both States that are participating in the agreement.

(c) INSPECTOR GENERAL REPORT.—

(1) MONITORING.—The Inspector General of the Department of Transportation shall monitor and review the implementation of the pilot program established under subsection (b).

(2) REPORT.—The Inspector General shall submit to Congress and the Secretary—

(A) not later than 1 year after the establishment of the pilot program under subsection (b), an interim report on the results of the review conducted under paragraph (1); and

(B) not later than 60 days after the conclusion of the pilot program, a final report on the results of the review conducted under paragraph (1).

(3) ADDITIONAL CONTENTS.—

(A) INTERIM REPORT.—The interim report required under paragraph (2)(A) shall address whether the Secretary has established sufficient mechanisms and generated sufficient data to determine if the pilot program is having any adverse effects on motor carrier safety.

(B) FINAL REPORT.—The final report required under paragraph (2)(B) shall address the impact of the pilot program on—

(i) safety; and

(ii) the number of commercial motor vehicle drivers available for employment.

SEC. 5405. VETERANS EXPANDED TRUCKING OPPORTUNITIES.

(a) IN GENERAL.—In the case of a physician-approved veteran operator, the qualified physician of such operator may, subject to the requirements of subsection (b), perform a medical examination and provide a medical certificate for purposes of compliance with the requirements of section 31149 of title 49, United States Code.

(b) CERTIFICATION.—The certification described under subsection (a) shall include—

(1) assurances that the physician performing the medical examination meets the requirements of a qualified physician under this section; and

(2) certification that the physical condition of the operator is adequate to enable such operator to operate a commercial motor vehicle safely.

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

(1) PHYSICIAN-APPROVED VETERAN OPERATOR.—The term "physician-approved veteran operator" means an operator of a commercial motor vehicle who—

(A) is a veteran who is enrolled in the health care system established under section 1705(a) of title 38, United States Code; and

(B) is required to have a current valid medical certificate pursuant to section 31149 of title 49, United States Code.

(2) QUALIFIED PHYSICIAN.—The term "qualified physician" means a physician who—

(A) is employed in the Department of Veterans Affairs;

(B) is familiar with the standards for, and physical requirements of, an operator certified pursuant to section 31149 of title 49, United States Code; and

(C) has never, with respect such section, been found to have acted fraudulently, including by fraudulently awarding a medical certificate.

(3) VETERAN.—The term "veteran" has the meaning given the term in section 101 of title 38, United States Code.

(d) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to change any statutory penalty associated with fraud or abuse.

Subtitle E—General Provisions

SEC. 5501. MINIMUM FINANCIAL RESPONSIBILITY.

(a) TRANSPORTING PROPERTY.—If the Secretary proceeds with a rulemaking to determine whether to increase the minimum levels of financial responsibility required under section 31139 of title 49, United States Code, the Secretary shall consider, prior to issuing a final rule—

(1) the rulemaking's potential impact on—

(A) the safety of motor vehicle transportation; and

(B) the motor carrier industry, including small and minority motor carriers and independent owner-operators;

(2) the ability of the insurance industry to provide the required amount of insurance;

(3) the extent to which current minimum levels of financial responsibility adequately cover—

(A) medical care;

(B) compensation;

(C) attorney fees; and

(D) other identifiable costs;

(4) the frequency with which insurance claims exceed current minimum levels of financial responsibility in fatal accidents; and

(5) the impact of increased levels on motor carrier safety and accident reduction.

(b) TRANSPORTING PASSENGERS.—

(1) IN GENERAL.—Prior to initiating a rulemaking to change the minimum levels of financial responsibility under section 31138 of title 49, United States Code, the Secretary shall complete a study specific to the minimum financial responsibility requirements for motor carriers of passengers.

(2) STUDY CONTENTS.—A study under paragraph (1) shall include—

(A) a review of accidents, injuries, and fatalities in the over-the-road bus and school bus industries;

(B) a review of insurance held by over-the-road bus and public and private school bus companies, including companies of various sizes, and an analysis of whether such insurance is adequate to cover claims;

(C) an analysis of whether and how insurance affects the behavior and safety record of motor carriers of passengers, including with respect to crash reduction; and

(D) an analysis of the anticipated impacts of an increase in financial responsibility on insurance premiums for passenger carriers and service availability.

(3) CONSULTATION.—In conducting a study under paragraph (1), the Secretary shall consult with—

(A) representatives of the over-the-road bus and private school bus transportation industries, including representatives of bus drivers; and

(B) insurers of motor carriers of passengers.

(4) REPORT.—If the Secretary undertakes a study under paragraph (1), 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 results of the study.

SEC. 5502. DELAYS IN GOODS MOVEMENT.

(a) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department 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 average length of time that operators of commercial motor vehicles are delayed before the loading and unloading of such vehicles and at other points in the pick-up and delivery process.

(2) CONTENTS.—The report under paragraph (1) shall include—

(A) an assessment of how delays impact—

(i) the economy;

(ii) the efficiency of the transportation system;

(iii) motor carrier safety, including the extent to which delays result in violations of motor carrier safety regulations; and

(iv) the livelihood of motor carrier drivers; and

(B) recommendations on how delays could be mitigated.

(b) COLLECTION OF DATA.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish by regulation a process to collect data on delays experienced by operators of commercial motor vehicles before the loading and unloading of such vehicles and at other points in the pick-up and delivery process.

SEC. 5503. REPORT ON MOTOR CARRIER FINANCIAL RESPONSIBILITY.

(a) IN GENERAL.—Not later than April 1, 2016, the Secretary shall publish on a publicly accessible Internet Web site of the Department a report on the minimum levels of financial responsibility required under section 31139 of title 49, United States Code.

(b) CONTENTS.—The report required under subsection (a) shall include an analysis of—

(1) the differences between State insurance requirements and Federal requirements;

(2) the extent to which current minimum levels of financial responsibility adequately cover—

(A) medical care;
(B) compensation;
(C) attorney fees; and
(D) other identifiable costs; and

(3) the frequency with which insurance claims exceed the current minimum levels of financial responsibility.

SEC. 5504. EMERGENCY ROUTE WORKING GROUP.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a working group to determine best practices for expeditious State approval of special permits for vehicles involved in emergency response and recovery.

(2) MEMBERS.—The working group shall include representatives from—

(A) State highway transportation departments or agencies;
(B) relevant modal agencies within the Department;
(C) emergency response or recovery experts;
(D) relevant safety groups; and
(E) entities affected by special permit restrictions during emergency response and recovery efforts.

(b) CONSIDERATIONS.—In determining best practices under subsection (a), the working group shall consider whether—

(1) impediments currently exist that prevent expeditious State approval of special permits for vehicles involved in emergency response and recovery;

(2) it is possible to pre-identify and establish emergency routes between States through which infrastructure repair materials could be delivered following a natural disaster or emergency;

(3) a State could pre-designate an emergency route identified under paragraph (2) as a certified emergency route if a motor vehicle that exceeds the otherwise applicable Federal and State truck length or width limits may safely operate along such route during periods of declared emergency and recovery from such periods; and

(4) an online map could be created to identify each pre-designated emergency route under paragraph (3), including information on specific limitations, obligations, and notification requirements along that route.

(c) REPORT.—

(1) SUBMISSION.—Not later than 1 year after the date of enactment of this Act, the working group shall submit to the Secretary a report on its findings under this section and any recommendations for the implementation of best practices for expeditious State approval of special permits for vehicles involved in emergency response and recovery.

(2) PUBLICATION.—Not later than 30 days after the date the Secretary receives the report under paragraph (1), the Secretary shall publish the report on a publicly accessible Internet Web site of the Department.

(d) NOTIFICATION.—Not later than 6 months after the date the Secretary receives the report under subsection (c)(1), the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the actions the Secretary and the States have taken to implement the recommendations included in the report.

(e) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group.

(f) TERMINATION.—The working group shall terminate 1 year after the date the Secretary receives the report under subsection (c)(1).

SEC. 5505. HOUSEHOLD GOODS CONSUMER PROTECTION WORKING GROUP.

(a) WORKING GROUP.—The Secretary shall establish a working group for the purpose of developing recommendations on how to best convey to inexperienced consumers the information such consumers need to know with respect to the Federal laws concerning the interstate transportation of household goods by motor carrier.

(b) MEMBERSHIP.—The Secretary shall ensure that the working group is comprised of individuals with expertise in consumer affairs, educators with expertise in how people learn most effectively, and representatives of the household goods moving industry.

(c) RECOMMENDATIONS.—

(1) CONTENTS.—The recommendations developed by the working group shall include recommendations on—

(A) condensing publication ESA 03005 of the Federal Motor Carrier Safety Administration into a format that is more easily used by consumers;

(B) using state-of-the-art education techniques and technologies, including optimizing the use of the Internet as an educational tool; and

(C) reducing and simplifying the paperwork required of motor carriers and shippers in interstate transportation.

(2) DEADLINE.—Not later than 1 year after the date of enactment of this Act—

(A) the working group shall make the recommendations described in paragraph (1); and

(B) the Secretary shall publish the recommendations on a publicly accessible Internet Web site of the Department.

(d) REPORT.—Not later than 1 year after the date on which the working group makes its recommendations under subsection (c)(2), the Secretary shall issue a report to Congress on the implementation of such recommendations.

(e) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group.

(f) TERMINATION.—The working group shall terminate 1 year after the date the working group makes its recommendations under subsection (c)(2).

SEC. 5506. TECHNOLOGY IMPROVEMENTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a comprehensive analysis of the information technology and data collection and management systems of the Federal Motor Carrier Safety Administration.

(b) REQUIREMENTS.—The study conducted under subsection (a) shall—

(1) evaluate the efficacy of the existing information technology, data collection, processing systems, data correction procedures, and data management systems and programs, including their interaction with each other and their efficacy in meeting user needs;

(2) identify any redundancies among the systems, procedures, and programs described in paragraph (1);

(3) explore the feasibility of consolidating data collection and processing systems;

(4) evaluate the ability of the systems, procedures, and programs described in paragraph (1) to meet the needs of—

(A) the Federal Motor Carrier Safety Administration, at both the headquarters and State levels;

(B) the State agencies that implement the motor carrier safety assistance program under section 31102 of title 49, United States Code; and

(C) other users;

(5) evaluate the adaptability of the systems, procedures, and programs described in paragraph (1), in order to make necessary future changes to ensure user needs are met in an easier, timely, and more cost-efficient manner;

(6) investigate and make recommendations regarding—

(A) deficiencies in existing data sets impacting program effectiveness; and

(B) methods to improve user interfaces; and

(7) identify the appropriate role the Federal Motor Carrier Safety Administration should take with respect to software and information systems design, development, and maintenance for the purpose of improving the efficacy of the systems, procedures, and programs described in paragraph (1).

SEC. 5507. NOTIFICATION REGARDING MOTOR CARRIER REGISTRATION.

Not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate written notification of the actions the Secretary is taking to ensure, to the greatest extent practicable, that each application for registration under section 13902 of title 49, United States Code, is processed not later than 30 days after the date on which the application is received by the Secretary.

SEC. 5508. REPORT ON COMMERCIAL DRIVER'S LICENSE SKILLS TEST DELAYS.

Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Administrator of the Federal Motor Carrier Safety Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(1) describes, for each State, the status of skills testing for applicants for a commercial driver's license, including—

(A) the average wait time, by month and location, from the date an applicant requests to take a skills test to the date the applicant completes such test;

(B) the average wait time, by month and location, from the date an applicant, upon failure of a skills test, requests a retest to the date the applicant completes such retest;

(C) the actual number of qualified commercial driver's license examiners, by month and location, available to test applicants; and

(D) the number of testing sites available through the State department of motor vehicles and whether this number has increased or decreased from the previous year; and

(2) describes specific steps that the Administrator is taking to address skills testing delays in States that have average skills test or retest wait times of more than 7 days from the date an applicant requests to test or retest to the date the applicant completes such test or retest.

SEC. 5509. COVERED FARM VEHICLES.

Section 32934(b)(1) of MAP–21 (49 U.S.C. 31136 note) is amended by striking "from" and all that follows through the period at end and inserting the following: "from—

"(A) a requirement described in subsection (a) or a compatible State requirement; or

"(B) any other minimum standard provided by a State relating to the operation of that vehicle.".

SEC. 5510. OPERATORS OF HI-RAIL VEHICLES.

(a) IN GENERAL.—In the case of a commercial motor vehicle driver subject to the hours of service requirements in part 395 of title 49, Code of Federal Regulations, who is driving a hi-rail vehicle, the maximum on duty time under section 395.3 of such title for such driver shall not include time in transportation to or from a duty assignment if such time in transportation—

(1) does not exceed 2 hours per calendar day or a total of 30 hours per calendar month; and

(2) is fully and accurately accounted for in records to be maintained by the motor carrier and such records are made available upon request of the Federal Motor Carrier Safety Administration or the Federal Railroad Administration.

(b) EMERGENCY.—In the case of a train accident, an act of God, a train derailment, or a major equipment failure or track condition that prevents a train from advancing, a driver described in subsection (a) may complete a run without being in violation of the provisions of part 395 of title 49, Code of Federal Regulations.

(c) HI-RAIL VEHICLE DEFINED.—In this section, the term "hi-rail vehicle" has the meaning given the term in section 214.7 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

SEC. 5511. ELECTRONIC LOGGING DEVICE REQUIREMENTS.

Section 31137(b) of title 49, United States Code, is amended—

(1) in paragraph (1)(C) by striking "apply to" and inserting "except as provided in paragraph (3), apply to"; and

(2) by adding at the end the following:

"(3) EXCEPTION.—A motor carrier, when transporting a motor home or recreation vehicle trailer within the definition of the term 'driveaway-towaway operation' (as defined in section 390.5 of title 49, Code of Federal Regulations), may comply with the hours of service requirements by requiring each driver to use—

"(A) a paper record of duty status form; or

"(B) an electronic logging device.".

SEC. 5512. TECHNICAL CORRECTIONS.

(a) TITLE 49.—Title 49, United States Code, is amended as follows:

(1) Section 13902(i)(2) is amended by inserting "except as" before "described".

(2) Section 13903(d) is amended by striking "(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—" and all that follows through "(1) IN GENERAL.—A freight forwarder" and inserting "(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A freight forwarder".

(3) Section 13905(d)(2)(D) is amended—

(A) by striking "the Secretary finds that—" and all that follows through "(i) the motor carrier," and inserting "the Secretary finds that the motor carrier,"; and

(B) by adding a period at the end.

(4) Section 14901(h) is amended by striking "HOUSEHOLD GOODS" in the heading.

(5) Section 14916 is amended by striking the section designation and heading and inserting the following:

"§ 14916. Unlawful brokerage activities".

(b) MAP–21.—Effective as of July 6, 2012, and as if included therein as enacted, MAP–21 (Public Law 112–141) is amended as follows:

(1) Section 32108(a)(4) (126 Stat. 782) is amended by inserting "for" before "each additional day" in the matter proposed to be struck.

(2) Section 32301(b)(3) (126 Stat. 786) is amended by striking "by amending (a) to read as follows:" and inserting "by striking subsection (a) and inserting the following:".

(3) Section 32302(c)(2)(B) (126 Stat. 789) is amended by striking "section 32303(c)(1)" and inserting "section 32302(c)(1)".

(4) Section 32921(b) (126 Stat. 828) is amended, in the matter to be inserted, by striking "(A) In addition" and inserting the following:

"(A) IN GENERAL.—In addition".

(5) Section 32931(c) (126 Stat. 829) is amended—

(A) by striking "Secretary" and inserting "Secretary of Transportation" in the matter to be struck; and

(B) by striking "Secretary" and inserting "Secretary of Transportation" in the matter to be inserted.

(c) MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999.—Section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31136 note) is amended by inserting "of title 49, United States Code," after "sections 31136 and 31502".

SEC. 5513. AUTOMOBILE TRANSPORTER.

Section 31111(b)(1) of title 49, United States Code, is amended—

(1) in subparagraph (E) by striking "or" at the end;

(2) in subparagraph (F) by striking the period at the end and inserting "; or"; and

(3) 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 front overhang of less than 4 feet and a rear overhang of less than 6 feet.".

SEC. 5514. READY MIX CONCRETE DELIVERY VEHICLES.

Section 31502 of title 49, United States Code, is amended by adding at the end the following:

"(f) READY MIXED CONCRETE DELIVERY VEHICLES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, regulations issued under this section or section 31136 (including section 1(e)(1)(ii) of part 395 of title 49, Code of Federal Regulations) regarding reporting, recordkeeping, or documentation of duty status, shall not apply to any driver of a ready mixed concrete delivery vehicle if—

"(A) the driver operates within a 100 air-mile radius of the normal work reporting location;

"(B) the driver returns to the work reporting location and is released from work within 14 consecutive hours;

"(C) the driver has at least 10 consecutive hours off duty following each 14 hours on duty;

"(D) the driver does not exceed 11 hours maximum driving time following 10 consecutive hours off duty; and

"(E) the motor carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records that show—

"(i) the time the driver reports for duty each day;

"(ii) the total number of hours the driver is on duty each day;

"(iii) the time the driver is released from duty each day; and

"(iv) the total time for the preceding driving week the driver is used for the first time or intermittently.

"(2) DEFINITION.—In this section, the term 'driver of ready mixed concrete delivery vehicle' means a driver of a vehicle designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.".

TITLE VI—INNOVATION

SEC. 6001. SHORT TITLE.

This title may be cited as the "Transportation for Tomorrow Act of 2015".

SEC. 6002. AUTHORIZATION OF APPROPRIATIONS.

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

(1) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out section 503(b) of title 23, United States Code, $125,000,000 for each of fiscal years 2016 through 2021.

(2) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—To carry out section 503(c) of title 23, United States Code—

(A) $67,000,000 for fiscal year 2016;
(B) $67,500,000 for fiscal year 2017;
(C) $67,500,000 for fiscal year 2018;
(D) $67,500,000 for fiscal year 2019;
(E) $67,500,000 for fiscal year 2020; and
(F) $67,500,000 for fiscal year 2021.

(3) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code $24,000,000 for each of fiscal years 2016 through 2021.

(4) INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM.—To carry out sections 512 through 518 of title 23, United States Code $100,000,000 for each of fiscal years 2016 through 2021.

(5) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—To carry out section 5505 of title 49, United States Code—

(A) $72,500,000 for fiscal year 2016;
(B) $75,000,000 for fiscal year 2017;
(C) $75,000,000 for fiscal year 2018;
(D) $77,500,000 for fiscal year 2019;
(E) $77,500,000 for fiscal year 2020; and
(F) $77,500,000 for fiscal year 2021.

(6) BUREAU OF TRANSPORTATION STATISTICS.—To carry out chapter 63 of title 49, United States Code, $26,000,000 for each of fiscal years 2016 through 2021.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall—

(1) be available for obligation in the same manner as if those 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 those funds shall be 80 percent, unless otherwise expressly provided by this Act (including the amendments by this Act) or otherwise determined by the Secretary; and

(2) remain available until expended and not be transferable, except as otherwise provided in this Act.

SEC. 6003. ADVANCED TRANSPORTATION AND CONGESTION MANAGEMENT TECHNOLOGIES DEPLOYMENT.

Section 503(c) of title 23, United States Code, is amended by adding at the end the following:

"(4) ADVANCED TRANSPORTATION TECHNOLOGIES DEPLOYMENT.—

"(A) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Secretary shall establish an advanced transportation and congestion management technologies deployment initiative to provide grants to eligible entities to develop model deployment sites for large scale installation and operation of advanced transportation technologies to improve safety, efficiency, system performance, and infrastructure return on investment.

"(B) CRITERIA.—The Secretary shall develop criteria for selection of an eligible entity to receive a grant under this paragraph, including how the deployment of technology will—

"(i) reduce costs and improve return on investments, including through the enhanced use of existing transportation capacity;

"(ii) deliver environmental benefits that alleviate congestion and streamline traffic flow;

"(iii) measure and improve the operational performance of the applicable transportation network;

"(iv) reduce the number and severity of traffic crashes and increase driver, passenger, and pedestrian safety;

"(v) collect, disseminate, and use real-time traffic, transit, parking, and other transportation-related information to improve mobility, reduce congestion, and provide for more efficient and accessible transportation;

"(vi) monitor transportation assets to improve infrastructure management, reduce maintenance costs, prioritize investment decisions, and ensure a state of good repair;

"(vii) deliver economic benefits by reducing delays, improving system performance, and providing for the efficient and reliable movement of goods and services; or

"(viii) accelerate the deployment of vehicle-to-vehicle, vehicle-to-infrastructure, autonomous vehicles, and other technologies.

"(C) APPLICATIONS.—

"(i) REQUEST.—Not later than 6 months after the date of enactment of this paragraph, and for every fiscal year thereafter, the Secretary shall request applications in accordance with clause (ii).

"(ii) CONTENTS.—An application submitted under this subparagraph shall include the following:

"(I) PLAN.—A plan to deploy and provide for the long-term operation and maintenance of advanced transportation and congestion management technologies to improve safety, efficiency, system performance, and return on investment.

"(II) OBJECTIVES.—Quantifiable system performance improvements, such as—

"(aa) reducing traffic-related crashes, congestion, and costs;

"(bb) optimizing system efficiency; and

"(cc) improving access to transportation services.

"(III) RESULTS.—Quantifiable safety, mobility, and environmental benefit projections such as data-driven estimates of how the project will improve the region's transportation system efficiency and reduce traffic congestion.

"(IV) PARTNERSHIPS.—A plan for partnering with the private sector or public agencies, including multimodal and multijurisdictional entities, research institutions, organizations representing transportation and technology leaders, or other transportation stakeholders.

"(V) LEVERAGING.—A plan to leverage and optimize existing local and regional advanced transportation technology investments.

"(D) GRANT SELECTION.—

"(i) GRANT AWARDS.—Not later than 1 year after the date of enactment of this paragraph, and for every fiscal year thereafter, the Secretary shall award grants to not less than 5 and not more than 8 eligible entities.

"(ii) GEOGRAPHIC DIVERSITY.—In awarding a grant under this paragraph, the Secretary shall ensure, to the extent practicable, that grant recipients represent diverse geographic areas of the United States.

"(E) USE OF GRANT FUNDS.—A grant recipient may use funds awarded under this paragraph to deploy advanced transportation and congestion management technologies, including—

"(i) advanced traveler information systems;

"(ii) advanced transportation management technologies;

"(iii) infrastructure maintenance, monitoring, and condition assessment;

"(iv) advanced public transportation systems;

"(v) transportation system performance data collection, analysis, and dissemination systems;

"(vi) advanced safety systems, including vehicle-to-vehicle and vehicle-to-infrastructure communications, technologies associated with autonomous vehicles, and other collision avoidance technologies, including systems using cellular technology;

"(vii) integration of intelligent transportation systems with the Smart Grid and other energy distribution and charging systems;

"(viii) electronic pricing and payment systems; or

"(ix) advanced mobility and access technologies, such as dynamic ridesharing and information systems to support human services for elderly and disabled individuals.

"(F) REPORT TO SECRETARY.—Not later than 1 year after an eligible entity receives a grant under this paragraph, and each year thereafter, the entity shall submit a report to the Secretary that describes—

"(i) deployment and operational costs of the project compared to the benefits and savings the project provides; and

"(ii) how the project has met the original expectations projected in the deployment plan submitted with the application, such as—

"(I) data on how the project has helped reduce traffic crashes, congestion, costs, and other benefits of the deployed systems;

"(II) data on the effect of measuring and improving transportation system performance through the deployment of advanced technologies;

"(III) the effectiveness of providing real-time integrated traffic, transit, and multimodal transportation information to the public to make informed travel decisions; and

"(IV) lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

"(G) REPORT.—Not later than 3 years after the date that the first grant is awarded under this paragraph, and each year thereafter, the Secretary shall make available to the public on an Internet Web site a report that describes the effectiveness of grant recipients in meeting their projected deployment plans, including data provided under subparagraph (F) on how the program has—

"(i) reduced traffic-related fatalities and injuries;

"(ii) reduced traffic congestion and improved travel time reliability;

"(iii) reduced transportation-related emissions;

"(iv) optimized multimodal system performance;

"(v) improved access to transportation alternatives;

"(vi) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;

"(vii) provided cost savings to transportation agencies, businesses, and the traveling public; or

"(viii) provided other benefits to transportation users and the general public.

"(H) ADDITIONAL GRANTS.—The Secretary may cease to provide additional grant funds to a recipient of a grant under this paragraph if—

"(i) the Secretary determines from such recipient's report that the recipient is not carrying out the requirements of the grant; and

"(ii) the Secretary provides written notice 60 days prior to withholding funds to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

"(I) FUNDING.—

"(i) IN GENERAL.—From funds made available to carry out section 503(b), this subsection, and sections 512 through 518, the Secretary shall set aside for grants awarded under subparagraph (D) $75,000,000 for each of fiscal years 2016 through 2021.

"(ii) EXPENSES FOR THE SECRETARY.—Of the amounts set aside under clause (i), the Secretary may set aside $2,000,000 each fiscal year for program reporting, evaluation, and administrative costs related to this paragraph.

"(J) FEDERAL SHARE.—The Federal share of the cost of a project for which a grant is awarded under this subsection shall not exceed 50 percent of the cost of the project.

"(K) GRANT LIMITATION.—The Secretary may not award more than 20 percent of the amount described under subparagraph (I) in a fiscal year to a single grant recipient.

"(L) EXPENSES FOR GRANT RECIPIENTS.—A grant recipient under this paragraph may use not more than 5 percent of the funds awarded each fiscal year to carry out planning and reporting requirements.

"(M) GRANT FLEXIBILITY.—

"(i) IN GENERAL.—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications that meet the requirements described in subparagraph (C) to carry out this section for a fiscal year, the Secretary shall transfer to the programs specified in clause (ii)—

"(I) any of the funds reserved for the fiscal year under subparagraph (I) that the Secretary has not yet awarded under this paragraph; and

"(II) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under subclause (I).

"(ii) PROGRAMS.—The programs referred to in clause (i) are—

"(I) the program under section 503(b);

"(II) the program under section 503(c); and

"(III) the programs under sections 512 through 518.

"(iii) DISTRIBUTION.—Any transfer of funds and obligation limitation under clause (i) shall be divided among the programs referred to in that clause in the same proportions as the Secretary originally reserved funding from the programs for the fiscal year under subparagraph (I).

"(N) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) ELIGIBLE ENTITY.—The term 'eligible entity' means a State or local government, a transit agency, metropolitan planning organization representing a population of over 200,000, or other political subdivision of a State or local government or a multijurisdictional group or a consortia of research institutions or academic institutions.

"(ii) ADVANCED AND CONGESTION MANAGEMENT TRANSPORTATION TECHNOLOGIES.—The term 'advanced transportation and congestion management technologies' means technologies that improve the efficiency, safety, or state of good repair of surface transportation systems, including intelligent transportation systems.

"(iii) MULTIJURISDICTIONAL GROUP.—The term 'multijurisdictional group' means a any combination of State governments, locals governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State for which each member of the group—

"(I) has signed a written agreement to implement the advanced transportation technologies deployment initiative across jurisdictional boundaries; and

"(II) is an eligible entity under this paragraph.".

SEC. 6004. TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.

Section 503(c)(3) of title 23, United States Code, is amended—

(1) in subparagraph (C) by striking "2013 through 2014" and inserting "2016 through 2021"; and

(2) by adding at the end the following:

"(D) PUBLICATION.—The Secretary shall make available to the public on an Internet Web site on an annual basis a report on the cost and benefits from deployment of new technology and innovations that substantially and directly resulted from the program established under this paragraph. The report may include an analysis of—

"(i) Federal, State, and local cost savings;

"(ii) project delivery time improvements;

"(iii) reduced fatalities; and

"(iv) congestion impacts.".

SEC. 6005. INTELLIGENT TRANSPORTATION SYSTEM GOALS.

Section 514(a) of title 23, United States Code, is amended—

(1) in paragraph (4) by striking "and" at the end;

(2) in paragraph (5) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) enhancement of the national freight system and support to national freight policy goals by conducting heavy duty vehicle demonstration activities and accelerating adoption of intelligent transportation system applications in freight operations.".

SEC. 6006. INTELLIGENT TRANSPORTATION SYSTEM PROGRAM REPORT.

Section 515(h)(4) of title 23, United States Code, is amended—

(1) by striking "February 1 of each year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012" and inserting "May 1 of each year"; and

(2) by striking "submit to Congress" and inserting "make available to the public on a Department of Transportation Web site".

SEC. 6007. INTELLIGENT TRANSPORTATION SYSTEM NATIONAL ARCHITECTURE AND STANDARDS.

Section 517(a)(3) of title 23, United States Code, is amended by striking "memberships are comprised of, and represent," and inserting "memberships include representatives of".

SEC. 6008. COMMUNICATION SYSTEMS DEPLOYMENT REPORT.

Section 518(a) of title 23, United States Code, is amended by striking "Not later than 3" and all that follows through "House of Representatives" and inserting "Not later than July 6, 2016, the Secretary shall make available to the public on a Department of Transportation Web site a report".

SEC. 6009. INFRASTRUCTURE DEVELOPMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding at the end the following:

"§ 519. 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, equipment, and systems; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical surface transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding at the end the following new item:

"519. Infrastructure development.".

(2) TECHNICAL AMENDMENT.—The item relating to section 512 in the analysis for chapter 5 of title 23, United States Code, is amended to read as follows:

"512. National ITS program plan.".

SEC. 6010. DEPARTMENTAL RESEARCH PROGRAMS.

(a) ASSISTANT SECRETARY FOR RESEARCH AND TECHNOLOGY.—Section 102(e) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "5" and inserting "6"; and

(2) in paragraph (1)(A) by inserting "an Assistant Secretary for Research and Technology," after "Governmental Affairs,".

(b) RESEARCH ACTIVITIES.—Section 330 of title 49, United States Code, is amended—

(1) in the section heading by striking "**contracts**" and inserting "**activities**";

(2) in subsection (a) by striking "The Secretary of" and inserting "IN GENERAL.—The Secretary of";

(3) in subsection (b) by striking "In carrying" and inserting "RESPONSIBILITIES.—In carrying";

(4) in subsection (c) by striking "The Secretary" and inserting "PUBLICATIONS.—The Secretary"; and

(5) by adding at the end the following:

"(d) DUTIES.—The Secretary shall provide for the following:

"(1) Coordination, facilitation, and review of Department of Transportation research and development programs and activities.

"(2) Advancement, and research and development, of innovative technologies, including intelligent transportation systems.

"(3) Comprehensive transportation statistics research, analysis, and reporting.

"(4) Education and training in transportation and transportation-related fields.

"(5) Activities of the Volpe National Transportation Systems Center.

"(6) Coordination in support of multimodal and multidisciplinary research activities.

"(e) ADDITIONAL AUTHORITIES.—The Secretary may—

"(1) enter into grants and cooperative agreements with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons to conduct research into transportation service and infrastructure assurance and to carry out other research activities of the Department of Transportation;

"(2) carry out, on a cost-shared basis, collaborative research and development to encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology 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; and

"(3) 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 Academies, 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.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to paragraph (2), the Federal share of the cost of an activity carried out under subsection (e)(3) shall not exceed 50 percent.

"(2) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(3) 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 subsection (e)(3).

"(g) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2016 through 2021, the Secretary is authorized to expend not more than 1 and a half percent of the amounts authorized to be appropriated for the coordination, evaluation, and oversight of the programs administered by the Office of the Assistant Secretary for Research and Technology.

"(h) 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 section, 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.).

"(i) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this section.".

(c) CLERICAL AMENDMENT.—The item relating to section 330 in the analysis of chapter 3 of title 49, United States Code, is amended to read as follows:

"330. Research activities.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 5 AMENDMENTS.—

(A) POSITIONS AT LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking "The Under Secretary of Transportation for Security.".

(B) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended in the undesignated item relating to Assistant Secretaries of Transportation by striking "(4)" and inserting "(5)".

(C) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking "Associate Deputy Secretary, Department of Transportation.".

(2) BUREAU OF TRANSPORTATION STATISTICS.—Section 6302(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There shall be within the Department of Transportation the Bureau of Transportation Statistics.".

SEC. 6011. RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION.

(a) REPEAL.—Section 112 of title 49, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by striking the item relating to section 112.

SEC. 6012. OFFICE OF INTERMODALISM.

(a) REPEAL.—Section 5503 of title 49, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5503.

SEC. 6013. UNIVERSITY TRANSPORTATION CENTERS.

Section 5505 of title 49, United States Code, is amended to read as follows:

"§ 5505. University transportation centers program

"(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

"(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

"(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

"(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

"(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

"(C) to address critical workforce needs and educate the next generation of transportation leaders.

"(b) COMPETITIVE SELECTION PROCESS.—

"(1) APPLICATIONS.—To receive a grant under this section, a consortium of nonprofit institutions of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

"(2) LIMITATION.—A lead institution of a consortium of nonprofit institutions of higher education, as applicable, may only submit 1 grant application per fiscal year for each of the transportation centers described under paragraphs (2), (3), and (4) of subsection (c).

"(3) COORDINATION.—The Secretary shall solicit grant applications for national transportation centers, regional transportation centers, and Tier 1 university transportation centers with identical advertisement schedules and deadlines.

"(4) GENERAL SELECTION CRITERIA.—

"(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23.

"(B) CRITERIA.—The Secretary, in consultation with the Assistant Secretary for Research and Technology and the Administrator of the Federal Highway Administration, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

"(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

"(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

"(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

"(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

"(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

"(I) degree-granting programs or programs that provide other industry-recognized credentials; and

"(II) outreach activities to attract new entrants into the transportation field, including women and underrepresented populations;

"(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

"(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

"(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

"(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

"(5) TRANSPARENCY.—

"(A) IN GENERAL.—The Secretary shall provide to each applicant, upon request, any materials, including copies of reviews (with any information that would identify a reviewer redacted), used in the evaluation process of the proposal of the applicant.

"(B) REPORTS.—The Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the overall review process under paragraph (3) that includes—

"(i) specific criteria of evaluation used in the review;

"(ii) descriptions of the review process; and

"(iii) explanations of the selected awards.

"(6) OUTSIDE STAKEHOLDERS.—The Secretary shall, to the maximum extent practicable, consult external stakeholders such as the Transportation Research Board of the National Research Council of the National Academies to evaluate and competitively review all proposals.

"(c) GRANTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, Assistant Secretary for Research and Technology, and the Administrator of the Federal Highway Administration shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

"(2) NATIONAL TRANSPORTATION CENTERS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide grants to 5 consortia that the Secretary determines best meet the criteria described in subsection (b)(4).

"(B) RESTRICTIONS.—

"(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall be not greater than $4,000,000 and not less than $2,000,000 per recipient.

"(ii) FOCUSED RESEARCH.—A consortium receiving a grant under this paragraph shall focus research on 1 of the transportation issue areas specified in section 508(a)(2) of title 23.

"(C) MATCHING REQUIREMENT.—

"(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

"(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

"(I) section 504(b) of title 23; or

"(II) section 505 of title 23.

"(3) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

"(A) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled 'Standard Federal Regions' and dated April 1974 (circular A–105).

"(B) SELECTION CRITERIA.—In conducting a competition under subsection (b), the Secretary shall provide grants to 10 consortia on the basis of—

"(i) the criteria described in subsection (b)(4);

"(ii) the location of the lead center within the Federal region to be served; and

"(iii) whether the consortium of institutions demonstrates that the consortium has a well-established, nationally recognized program in transportation research and education, as evidenced by—

"(I) recent expenditures by the institution in highway or public transportation research;

"(II) a historical track record of awarding graduate degrees in professional fields closely related to highways and public transportation; and

"(III) an experienced faculty who specialize in professional fields closely related to highways and public transportation.

"(C) RESTRICTIONS.—For each fiscal year, a grant made available under this paragraph shall be not greater than $3,000,000 and not less than $1,500,000 per recipient.

"(D) MATCHING REQUIREMENTS.—

"(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

"(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

"(I) section 504(b) of title 23; or

"(II) section 505 of title 23.

"(E) FOCUSED RESEARCH.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under this paragraph for the purpose of furthering the objectives described in subsection (a)(2) in the field of comprehensive transportation safety.

"(4) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

"(A) IN GENERAL.—The Secretary shall provide grants of not greater than $2,000,000 and not less than $1,000,000 to not more than 20 recipients to carry out this paragraph.

"(B) MATCHING REQUIREMENT.—

"(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

"(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

"(I) section 504(b) of title 23; or

"(II) section 505 of title 23.

"(C) FOCUSED RESEARCH.—In awarding grants under this section, consideration shall be given to minority institutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.

"(d) PROGRAM COORDINATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

"(B) disseminate the results of that research through the establishment and operation of a publicly accessible online information clearinghouse.

"(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall—

"(A) review and evaluate the programs carried out under this section by grant recipients; and

"(B) submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing that review and evaluation.

"(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2016 through 2021, the Secretary shall expend not more than 1 and a half percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section.

"(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are authorized.

"(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.".

SEC. 6014. BUREAU OF TRANSPORTATION STATISTICS.

(a) BUREAU OF TRANSPORTATION STATISTICS.—Section 6302(b)(3)(B) of title 49, United States Code, is amended—

(1) in clause (vi)(III) by striking "section 6310" and inserting "section 6309";

(2) by redesignating clauses (vii), (viii), (ix), and (x) as clauses (x), (xi), (xii), and (xiii), respectively; and

(3) by inserting after clause (vi) the following:

"(vii) develop and improve transportation economic accounts to meet demand for methods for estimating the economic value of transportation infrastructure, investment, and services;

"(viii) not be required to obtain the approval of any other officer or employee of the Department in connection with the collection or analysis of any information;

"(ix) not be required, prior to publication, to obtain the approval of any other officer or employee of the Federal Government with respect to the substance of any statistical technical reports or press releases that the Director has prepared in accordance with the law;".

(b) TECHNICAL AMENDMENT.—Section 6311(5) of title 49, United States Code, is amended by striking "section 6310" and inserting "section 6309".

SEC. 6015. SURFACE TRANSPORTATION SYSTEM FUNDING ALTERNATIVES.

(a) IN GENERAL.—The Secretary shall establish a program to provide grants to States to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Highway Trust Fund.

(b) APPLICATION.—To be eligible for a grant under this section, a State or group of States shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

(c) OBJECTIVES.—The Secretary shall ensure that the activities carried out using funds provided under this section meet the following objectives:

(1) To test the design, acceptance, and implementation of 2 or more future user-based alternative revenue mechanisms.

(2) To improve the functionality of such user-based alternative revenue mechanisms.

(3) To conduct outreach to increase public awareness regarding the need for alternative funding sources for surface transportation programs and to provide information on possible approaches.

(4) To provide recommendations regarding adoption and implementation of user-based alternative revenue mechanisms.

(5) To minimize the administrative cost of any potential user-based alternative revenue mechanisms.

(d) USE OF FUNDS.—A State or group of States receiving funds under this section to test the design, acceptance, and implementation of a user-based alternative revenue mechanism—

(1) shall address—

(A) the implementation, interoperability, public acceptance, and other potential hurdles to the adoption of the user-based alternative revenue mechanism;

(B) the protection of personal privacy;

(C) the use of independent and private third-party vendors to collect fees and operate the user-based alternative revenue mechanism;

(D) market-based congestion mitigation, if appropriate;

(E) equity concerns, including the impacts of the user-based alternative revenue mechanism on differing income groups, various geographic areas, and the relative burdens on rural and urban drivers;

(F) ease of compliance for different users of the transportation system; and

(G) the reliability and security of technology used to implement the user-based alternative revenue mechanism; and

(2) may address—

(A) the flexibility and choices of user-based alternative revenue mechanisms, including the ability of users to select from various technology and payment options;

(B) the cost of administering the user-based alternative revenue mechanism; and

(C) the ability of the administering entity to audit and enforce user compliance.

(e) CONSIDERATION.—The Secretary shall consider geographic diversity in awarding grants under this section.

(f) LIMITATIONS ON REVENUE COLLECTED.—Any revenue collected through a user-based alternative revenue mechanism established using funds provided under this section shall not be considered a toll under section 301 of title 23, United States Code.

(g) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section may not exceed 50 percent of the total cost of the activity.

(h) REPORT TO SECRETARY.—Not later than 1 year after the date on which the first eligible entity receives a grant under this section, and each year thereafter, each recipient of a grant under this section shall submit to the Secretary a report that describes—

(1) how the demonstration activities carried out with grant funds meet the objectives described in subsection (c); and

(2) lessons learned for future deployment of alternative revenue mechanisms that utilize a user fee structure.

(i) BIENNIAL REPORTS.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter until the completion of the demonstration activities under this section, the Secretary shall make available to the public on an Internet Web site a report describing the progress of the demonstration activities.

(j) FUNDING.—Of the funds authorized to carry out section 503(b) of title 23, United States Code—

(1) $15,000,000 shall be used to carry out this section for fiscal year 2016; and

(2) $20,000,000 shall be used to carry out this section for each of fiscal years 2017 through 2021.

(k) GRANT FLEXIBILITY.—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications that meet the requirements of this section for a fiscal year, Secretary shall transfer to the program under section 503(b) of title 23, United States Code—

(1) any of the funds reserved for the fiscal year under subsection (j) that the Secretary has not yet awarded under this section; and

(2) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under paragraph (1).

SEC. 6016. FUTURE INTERSTATE STUDY.

(a) FUTURE INTERSTATE SYSTEM STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the Transportation Research Board of the National Academies to conduct a study on the actions needed to upgrade and restore the Dwight D. Eisenhower National System of Interstate and Defense Highways to its role as a premier system that meets the growing and shifting demands of the 21st century.

(b) METHODOLOGIES.—In conducting the study, the Transportation Research Board shall build on the methodologies examined and recommended in the report prepared for the American Association of State Highway and Transportation Officials titled "National Cooperative Highway Research Program Project 20–24(79): Specifications for a National Study of the Future 3R, 4R, and Capacity Needs of the Interstate System", dated December 2013.

(c) CONTENTS OF STUDY.—The study—

(1) shall include specific recommendations regarding the features, standards, capacity needs, application of technologies, and intergovernmental roles to upgrade the Interstate System, including any revisions to law (including regulations) that the Transportation Research Board determines appropriate; and

(2) is encouraged to build on the institutional knowledge in the highway industry in applying the techniques involved in implementing the study.

(d) CONSIDERATIONS.—In carrying out the study, the Transportation Research Board shall determine the need for reconstruction and improvement of the Interstate System by considering—

(1) future demands on transportation infrastructure determined for national planning purposes, including commercial and private traffic flows to serve future economic activity and growth;

(2) the expected condition of the current Interstate System over the period of 50 years beginning on the date of enactment of this Act, including long-term deterioration and reconstruction needs;

(3) features that would take advantage of technological capabilities to address modern standards of construction, maintenance, and operations, for purposes of safety, and system management, taking into further consideration system performance and cost; and

(4) the resources necessary to maintain and improve the Interstate System.

(e) CONSULTATION.—In carrying out the study, the Transportation Research Board—

(1) shall convene and consult with a panel of national experts, including operators and users of the Interstate System and private sector stakeholders; and

(2) is encouraged to consult with—

(A) the Federal Highway Administration;

(B) States;

(C) planning agencies at the metropolitan, State, and regional levels;

(D) the motor carrier industry;

(E) freight shippers;

(F) highway safety groups; and

(G) other appropriate entities.

(f) REPORT.—Not later than 3 years after the date of enactment of this Act, the Transportation Research Board shall make available to the public on an Internet Web site the results of the study conducted under this section.

(g) FUNDING.—From funds made available to carry out section 503(b) of title 23, United States Code, the Secretary may use to carry out this section up to $5,000,000 for fiscal year 2016.

SEC. 6017. HIGHWAY EFFICIENCY.

(a) STUDY.—

(1) IN GENERAL.—The Assistant Secretary of Transportation for Research and Technology may examine the impact of pavement durability and sustainability on vehicle fuel consumption, vehicle wear and tear, road conditions, and road repairs.

(2) METHODOLOGY.—In carrying out the study, the Assistant Secretary shall—

(A) conduct a thorough review of relevant peer-reviewed research published during at least the past 5 years;

(B) analyze impacts of different types of pavement on all motor vehicle types, including commercial vehicles;

(C) specifically examine the impact of pavement deformation and deflection; and

(D) analyze impacts of different types of pavement on road conditions and road repairs.

(3) CONSULTATION.—In carrying out the study, the Assistant Secretary shall consult with—

(A) experts from the different modal administrations of the Department and from other Federal agencies, including the National Institute of Standards and Technology;

(B) State departments of transportation;

(C) local government engineers and public works professionals;

(D) industry stakeholders; and

(E) appropriate academic experts active in the field.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Assistant Secretary shall publish on a public Web site the results of the study.

(2) CONTENTS.—The report shall include—

(A) a summary of the different types of pavements analyzed in the study and the impacts of pavement durability and sustainability on vehicle fuel consumption, vehicle wear and tear, road conditions, and road repairs; and

(B) recommendations for State and local governments on best practice methods for improving pavement durability and sustainability to maximize vehicle fuel economy, ride quality, and road conditions and to minimize the need for road and vehicle repairs.

SEC. 6018. MOTORCYCLE SAFETY.

(a) STUDY.—The Assistant Secretary for Research and Technology of the Department of Transportation may enter into an agreement, within 45 days after the date of enactment of this Act, with the National Academy of Sciences to conduct a study on the most effective means of preventing motorcycle crashes.

(b) PUBLICATION.—The Assistant Secretary may make available the findings on a public Web site within 30 days after receiving the results of the study from the National Academy of Sciences.

SEC. 6019. HAZARDOUS MATERIALS RESEARCH AND DEVELOPMENT.

Section 5118 of title 49, United States Code, is amended—

(1) in subsection (a)(2)—

(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) coordinate, as appropriate, with other Federal agencies."; and

(2) by adding at the end the following new subsection:

"(c) COOPERATIVE RESEARCH.—

"(1) IN GENERAL.—As part of the program established in subsection (a), the Secretary may carry out cooperative research on hazardous materials transport.

"(2) NATIONAL ACADEMIES.—The Secretary may enter into an agreement with the National Academies to support such research.

"(3) RESEARCH.—Research conducted under this subsection may include activities related to—

"(A) emergency planning and response, including information and programs that can be readily assessed and implemented in local jurisdictions;

"(B) risk analysis and perception and data assessment;

"(C) commodity flow data, including voluntary collaboration between shippers and first responders for secure data exchange of critical information;

"(D) integration of safety and security;

"(E) cargo packaging and handling;

"(F) hazmat release consequences; and

"(G) materials and equipment testing.".

SEC. 6020. WEB-BASED TRAINING FOR EMERGENCY RESPONDERS.

Section 5115(a) of title 49, United States Code, is amended by inserting ", including online curriculum as appropriate," after "a current curriculum of courses".

SEC. 6021. TRANSPORTATION TECHNOLOGY POLICY WORKING GROUP.

To improve the scientific pursuit and research procedures concerning transportation, the Assistant Secretary for Research and Technology may convene an interagency working group to—

(1) develop within 1 year after the date of enactment of this Act a national transportation research framework;

(2) identify opportunities for coordination between the Department and universities and the private sector, and prioritize these opportunities;

(3) identify and develop a plan to implement best practices for moving transportation research results out of the laboratory and into application; and

(4) identify and develop a plan to address related workforce development needs.

SEC. 6022. COLLABORATION AND SUPPORT.

The Secretary may solicit the support of, and identify opportunities to collaborate with, other Federal research agencies and national laboratories to assist in the effective and efficient pursuit and resolution of research challenges identified by the Secretary.

SEC. 6023. PRIZE COMPETITIONS.

Section 502(b)(7) of title 23, United States Code, is amended—

(1) in subparagraph (D)—

(A) by inserting "(such as www.challenge.gov)" after "public website";

(B) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(C) by inserting after clause (ii) the following:

"(iii) the process for participants to register for the competition;"; and

(D) in clause (iv) (as redesignated by subparagraph (B)) by striking "prize" and inserting "cash prize purse";

(2) in subparagraph (E) by striking "prize" both places it appears and inserting "cash prize purse";

(3) by redesignating subparagraphs (F) through (K) as subparagraphs (G) through (L), respectively;

(4) by inserting after subparagraph (E) the following:

"(F) USE OF FEDERAL FACILITIES; CONSULTATION WITH FEDERAL EMPLOYEES.—An individual or entity is not ineligible to receive a cash prize purse under this paragraph as a result of the individual or entity using a Federal facility or consulting with a Federal employee related to the individual or entity's participation in a prize competition under this paragraph unless the same facility or employee is made available to all individuals and entities participating in the prize competition on an equitable basis.";

(5) in subparagraph (G) (as redesignated by paragraph (3) of this section)—

(A) in clause (i)(I) by striking "competition" and inserting "prize competition under this paragraph";

(B) in clause (ii)(I)—

(i) by striking "participation in a competition" and inserting "participation in a prize competition under this paragraph"; and

(ii) by striking "competition activities" and inserting "prize competition activities"; and

(C) by adding at the end the following:

"(iii) INTELLECTUAL PROPERTY.—

"(I) PROHIBITION ON REQUIRING WAIVER.—The Secretary may not require a participant to waive claims against the Department arising out of the unauthorized use or disclosure by the Department of the intellectual property, trade secrets, or confidential business information of the participant.

"(II) PROHIBITION ON GOVERNMENT ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.—The Federal Government may not gain an interest in intellectual property developed by a participant for a prize competition under this paragraph without the written consent of the participant.

"(III) LICENSES.—The Federal Government may negotiate a license for the use of intellectual property developed by a participant for a prize competition under this paragraph.";

(6) in subparagraph (H)(i) (as redesignated by paragraph (3) of this section) by striking "subparagraph (H)" and inserting "subparagraph (I)";

(7) in subparagraph (I) (as redesignated by paragraph (3) of this section) by striking "an agreement with a private, nonprofit entity" and inserting "a grant, contract, cooperative agreement, or other agreement with a private sector for-profit or nonprofit entity";

(8) in subparagraph (J) (as redesignated by paragraph (3) of this section)—

(A) in clause (i)—

(i) in subclause (I) by striking "the private sector" and inserting "private sector for-profit and nonprofit entities, to be available to the extent provided by appropriations Acts";

(ii) in subclause (II) by striking "and metropolitan planning organizations" and inserting "metropolitan planning organizations, and private sector for-profit and nonprofit entities"; and

(iii) in subclause (III) by inserting "for-profit or nonprofit" after "private sector";

(B) in clause (ii) by striking "prize awards" and inserting "cash prize purses";

(C) in clause (iv)—

(i) by inserting "competition" after "A prize"; and

(ii) by striking "the prize" and inserting "the cash prize purse";

(D) in clause (v)—

(i) by striking "amount of a prize" and inserting "amount of a cash prize purse";

(ii) by inserting "competition" after "announcement of the prize"; and

(iii) in subclause (I) by inserting "competition" after "prize";

(E) in clause (vi) by striking "offer a prize" and inserting "offer a cash prize purse"; and

(F) in clause (vii) by striking "cash prizes" and inserting "cash prize purses";

(9) in subparagraph (K) (as redesignated by paragraph (3) of this section) by striking "or providing a prize" and inserting "a prize competition or providing a cash prize purse"; and

(10) in subparagraph (L)(ii) (as redesignated by paragraph (3) of this section)—

(A) in subclause (I) by striking "The Secretary" and inserting "Not later than March 1 of each year, the Secretary"; and

(B) in subclause (II)—

(i) in item (cc) by striking "cash prizes" both places it appears and inserting "cash prize purses"; and

(ii) in item (ee) by striking "agency" and inserting "Department".

SEC. 6024. GAO REPORT.

Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall make available to the public a report that—

(1) assesses the status of autonomous transportation technology policy developed by public entities in the United States;

(2) assesses the organizational readiness of the Department to address autonomous vehicle technology challenges; and

(3) recommends implementation paths for autonomous transportation technology, applications, and policies that are based on the assessment described in paragraph (2).

SEC. 6025. INTELLIGENT TRANSPORTATION SYSTEM PURPOSES.

Section 514(b) of title 23, United States Code, is amended—

(1) in paragraph (8) by striking "and" at the end;

(2) in paragraph (9) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(10) to assist in the development of cybersecurity standards in cooperation with relevant modal administrations of the Department of Transportation and other Federal agencies to help prevent hacking, spoofing, and disruption of connected and automated transportation vehicles.".

SEC. 6026. INFRASTRUCTURE INTEGRITY.

Section 503(b)(3)(C) of title 23, United States Code, is amended—

(1) in clause (xviii) by striking "and" at the end;

(2) in clause (xix) by striking the period at the end and inserting "; and" ; and

(3) by adding at the end the following:

"(xx) corrosion prevention measures for the structural integrity of bridges.".

TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "Hazardous Materials Transportation Safety Improvement Act of 2015".

SEC. 7002. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 of title 49, United States Code, is amended to read as follows:

"§ 5128. Authorization of appropriations

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

"(1) $53,000,000 for fiscal year 2016;
"(2) $55,000,000 for fiscal year 2017;
"(3) $57,000,000 for fiscal year 2018;
"(4) $58,000,000 for fiscal year 2019;
"(5) $60,000,000 for fiscal year 2020; and
"(6) $62,000,000 for fiscal year 2021.

"(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(h), the Secretary may expend, for each of fiscal years 2016 through 2021—

"(1) $21,988,000 to carry out section 5116(a);
"(2) $150,000 to carry out section 5116(e);
"(3) $625,000 to publish and distribute the Emergency Response Guidebook under section 5116(h)(3); and
"(4) $1,000,000 to carry out section 5116(i).

"(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(h), the Secretary may expend $5,000,000 for each of fiscal years 2016 through 2021 to carry out section 5107(e).

"(d) CREDITS TO APPROPRIATIONS.—

"(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, Indian tribe, authority, or entity.

"(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.".

SEC. 7003. NATIONAL EMERGENCY AND DISASTER RESPONSE.

Section 5103 of title 49, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) FEDERALLY DECLARED DISASTERS AND EMERGENCIES.—

"(1) IN GENERAL.—The Secretary may by order waive compliance with any part of an applicable standard prescribed under this chapter without prior notice and comment and on terms the Secretary considers appropriate if the Secretary determines that—

"(A) it is in the public interest to grant the waiver;
"(B) the waiver is not inconsistent with the safety of transporting hazardous materials; and
"(C) the waiver is necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(2) PERIOD OF WAIVER.—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

"(3) STATEMENT OF REASONS.—The Secretary shall include in any order issued under this section the reason for granting the waiver.".

SEC. 7004. ENHANCED REPORTING.

Section 5121(h) of title 49, United States Code, is amended by striking "transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate" and inserting "make available to the public on the Department of Transportation's Internet Web site".

SEC. 7005. WETLINES.

(a) WITHDRAWAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall withdraw the proposed rule described in the notice of proposed rulemaking issued on January 27, 2011, entitled "Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids" (76 Fed. Reg. 4847).

(b) SAVINGS CLAUSE.—Nothing in this section shall prohibit the Secretary from issuing standards or regulations regarding the safety of external product piping on

cargo tanks transporting flammable liquids after the withdrawal is carried out pursuant to subsection (a).

SEC. 7006. IMPROVING PUBLICATION OF SPECIAL PERMITS AND APPROVALS.

Section 5117 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "an application for a special permit" and inserting "an application for a new special permit or a modification to an existing special permit"; and

(B) by inserting after the first sentence the following: "The Secretary shall make available to the public on the Department of Transportation's Internet Web site any special permit other than a new special permit or a modification to an existing special permit and shall give the public an opportunity to inspect the safety analysis and comment on the application for a period of not more than 15 days."; and

(2) in subsection (c)—

(A) by striking "publish" and inserting "make available to the public";

(B) by striking "in the Federal Register";

(C) by striking "180" and inserting "120"; and

(D) by striking "the special permit" each place it appears and inserting "a special permit or approval"; and

(3) by adding at the end the following:

"(g) DISCLOSURE OF FINAL ACTION.—The Secretary shall periodically, but at least every 120 days—

"(1) publish in the Federal Register notice of the final disposition of each application for a new special permit, modification to an existing special permit, or approval during the preceding quarter; and

"(2) make available to the public on the Department of Transportation's Internet Web site notice of the final disposition of any other special permit during the preceding quarter.".

SEC. 7007. GAO STUDY ON ACCEPTANCE OF CLASSIFICATION EXAMINATIONS.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Comptroller General of the United States shall evaluate and transmit to the Secretary, 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 standards, metrics, and protocols that the Secretary uses to regulate the performance of persons approved to recommend hazard classifications pursuant to section 173.56(b) of title, 49, Code of Federal Regulations (commonly referred to as "third-party labs").

(b) EVALUATION.—The evaluation required under subsection (a) shall—

(1) identify what standards and protocols are used to approve such persons, assess the adequacy of such standards and protocols to ensure that persons seeking approval are qualified and capable of performing classifications, and make recommendations to address any deficiencies identified;

(2) assess the adequacy of the Secretary's oversight of persons approved to perform the classifications, including the qualification of individuals engaged in the oversight of approved persons, and make recommendations to enhance oversight sufficiently to ensure that classifications are issued as required;

(3) identify what standards and protocols exist to rescind, suspend, or deny approval of persons who perform such classifications, assess the adequacy of such standards and protocols, and make recommendations to enhance such standards and protocols if necessary; and

(4) include annual data for fiscal years 2005 through 2015 on the number of applications received for new classifications pursuant to section 173.56(b) of title 49, Code of Federal Regulations, of those applications how many classifications recommended by persons approved by the Secretary were changed to another classification and the reasons for the change, and how many hazardous materials incidents have been attributed to a classification recommended by such approved persons in the United States.

(c) ACTION PLAN.—Not later than 120 days after receiving the report required under subsection (a), the Secretary shall make available to the public a plan describing any actions the Secretary will take to establish standards, metrics, and protocols based on the findings and recommendations in the report to ensure that persons approved to perform classification examinations required under section 173.56(b) of title 49, Code of Federal Regulations, can sufficiently perform such examinations in a manner that meets the hazardous materials regulations.

(d) REGULATIONS.—If the report required under subsection (a) recommends new regulations in order for the Secretary to have confidence in the accuracy of classification recommendations rendered by persons approved to perform classification ex-

aminations required under section 173.56(b) of title 49, Code of Federal Regulations, the Secretary shall issue such regulations not later than 24 months after the date of enactment of this Act.

SEC. 7008. IMPROVING THE EFFECTIVENESS OF PLANNING AND TRAINING GRANTS.

(a) PLANNING AND TRAINING GRANTS.—Section 5116 of title 49, United States Code, is amended—

(1) by redesignating subsections (c) through (k) as subsections (b) through (j), respectively,

(2) by striking subsection (b); and

(3) by striking subsection (a) and inserting the following:

"(a) PLANNING AND TRAINING GRANTS.—(1) The Secretary shall make grants to States and Indian tribes—

"(A) to develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.), including ascertaining flow patterns of hazardous material on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe;

"(B) to decide on the need for regional hazardous material emergency response teams; and

"(C) to train public sector employees to respond to accidents and incidents involving hazardous material.

"(2) To the extent that a grant is used to train emergency responders under paragraph (1)(C), the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials.

"(3) The Secretary may make a grant to a State or Indian tribe under paragraph (1) of this subsection only if—

"(A) the State or Indian tribe certifies that the total amount the State or Indian tribe expends (except amounts of the Federal Government) for the purpose of the grant will at least equal the average level of expenditure for the last 5 years; and

"(B) any emergency response training provided under the grant shall consist of—

"(i) a course developed or identified under section 5115 of this title; or

"(ii) any other course the Secretary determines is consistent with the objectives of this section.

"(4) A State or Indian tribe receiving a grant under this subsection shall ensure that planning and emergency response training under the grant is coordinated with adjacent States and Indian tribes.

"(5) A training grant under paragraph (1)(C) may be used—

"(A) to pay—

"(i) the tuition costs of public sector employees being trained;

"(ii) travel expenses of those employees to and from the training facility;

"(iii) room and board of those employees when at the training facility; and

"(iv) travel expenses of individuals providing the training;

"(B) by the State, political subdivision, or Indian tribe to provide the training; and

"(C) to make an agreement with a person (including an authority of a State, a political subdivision of a State or Indian tribe, or a local jurisdiction), subject to approval by the Secretary, to provide the training—

"(i) if the agreement allows the Secretary and the State or Indian tribe to conduct random examinations, inspections, and audits of the training without prior notice;

"(ii) the person agrees to have an auditable accounting system; and

"(iii) if the State or Indian tribe conducts at least one on-site observation of the training each year.

"(6) The Secretary shall allocate amounts made available for grants under this subsection among eligible States and Indian tribes based on the needs of the States and Indian tribes for emergency response training. In making a decision about those needs, the Secretary shall consider—

"(A) the number of hazardous material facilities in the State or on land under the jurisdiction of the Indian tribe;

"(B) the types and amounts of hazardous material transported in the State or on such land;

"(C) whether the State or Indian tribe imposes and collects a fee on transporting hazardous material;

"(D) whether such fee is used only to carry out a purpose related to transporting hazardous material;

"(E) the past record of the State or Indian tribe in effectively managing planning and training grants; and

"(F) any other factors the Secretary determines are appropriate to carry out this subsection.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 5108(g) of title 49, United States Code, is amended by striking "5116(i)" each place it appears and inserting "5116(h)".

(2) Section 5116 of such title is amended—

(A) in subsection (d), as redesignated by this section, by striking "subsections (a)(2)(A) and (b)(2)(A)" and inserting "subsection (a)(3)(A)";

(B) in subsection (h), as redesignated by this section—

(i) in paragraph (1) by inserting "and section 5107(e)" after "section";

(ii) in paragraph (2) by striking "(f)" and inserting "(e)"; and

(iii) in paragraph (4) by striking "5108(g)(2) and 5115" and inserting "5107(e) and 5108(g)(2)";

(C) in subsection (i), as redesignated by this section, by striking "subsection (b)" and inserting "subsection (a)"; and

(D) in subsection (j), as redesignated by this section—

(i) by striking "planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j)" and inserting "planning and training grants under subsection (a) and grants under subsection (i)"; and

(ii) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

(c) ENFORCEMENT PERSONNEL.—Section 5107(e) of title 49, United States Code, is amended by inserting ", State and local personnel responsible for enforcing the safe transportation of hazardous materials, or both" after "hazmat employees" each place it appears.

SEC. 7009. MOTOR CARRIER SAFETY PERMITS.

Section 5109(h) of title 49, United States Code, is amended to read as follows:

"(h) LIMITATION ON DENIAL.—The Secretary may not deny a non-temporary permit held by a motor carrier pursuant to this section based on a comprehensive review of that carrier triggered by safety management system scores or out-of-service disqualification standards, unless—

"(1) the carrier has the opportunity, prior to the denial of such permit, to submit a written description of corrective actions taken and other documentation the carrier wishes the Secretary to consider, including a corrective action plan; and

"(2) the Secretary determines the actions or plan is insufficient to address the safety concerns identified during the course of the comprehensive review.".

SEC. 7010. THERMAL BLANKETS.

(a) REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue such regulations as are necessary to require that each tank car built to meet the DOT–117 specification and each non-jacketed tank car modified to meet the DOT–117R specification be equipped with an insulating blanket with at least ½-inch-thick material that has been approved by the Secretary pursuant to section 179.18(c) of title 49, Code of Federal Regulations.

(b) SAVINGS CLAUSE.—Nothing in this section shall prohibit the Secretary from approving new or alternative technologies or materials as they become available that provide a level of safety at least equivalent to the level of safety provided for under subsection (a).

SEC. 7011. COMPREHENSIVE OIL SPILL RESPONSE PLANS.

(a) IN GENERAL.—Chapter 51 of title 49, United States Code, is amended by inserting after section 5110 the following:

"§ 5111. Comprehensive oil spill response plans

"(a) REQUIREMENTS.—Not later than 120 days after the date of enactment of this section, the Secretary shall issue such regulations as are necessary to require any railroad carrier transporting a Class 3 flammable liquid to maintain a comprehensive oil spill response plan.

"(b) CONTENTS.—The regulations under subsection (a) shall require each railroad carrier described in that subsection to—

"(1) include in the comprehensive oil spill response plan procedures and resources, including equipment, for responding, to the maximum extent practicable, to a worst-case discharge;

"(2) ensure that the comprehensive oil spill response plan is consistent with the National Contingency Plan and each applicable Area Contingency Plan;

"(3) include in the comprehensive oil spill response plan appropriate notification and training procedures and procedures for coordinating with Federal, State, and local emergency responders;

"(4) review and update its comprehensive oil spill response plan as appropriate; and

"(5) provide the comprehensive oil spill response plan for acceptance by the Secretary.

"(c) SAVINGS CLAUSE.—Nothing in the section may be construed to prohibit the Secretary from promulgating differing comprehensive oil response plan standards for Class I railroads, Class II railroads, and Class III railroads.

"(d) RESPONSE PLANS.—The Secretary shall—

"(1) maintain on file a copy of the most recent comprehensive oil spill response plans prepared by a railroad carrier transporting a Class 3 flammable liquid; and

"(2) provide to a person, upon written request, a copy of the plan, which may exclude, as the Secretary determines appropriate—

"(A) proprietary information;

"(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations;

"(C) specific response resources and tactical resource deployment plans; and

"(D) the specific amount and location of worst-case discharges, including the process by which a railroad carrier determines the worst-case discharge.

"(e) RELATIONSHIP TO FOIA.—Nothing in this section may be construed to require disclose of information or records that are exempt from disclosure under section 552 of title 5.

"(f) DEFINITIONS.—

"(1) AREA CONTINGENCY PLAN.—The term 'Area Contingency Plan' has the meaning given the term in section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)).

"(2) CLASS 3 FLAMMABLE LIQUID.—The term 'Class 3 flammable liquid' has the meaning given the term flammable liquid in section 173.120 of title 49, Code of Federal Regulations.

"(3) CLASS I RAILROAD; CLASS II RAILROAD; AND CLASS III RAILROAD.—The terms 'Class I railroad', 'Class II railroad', and 'Class III railroad' have the meaning given those terms in section 20102.

"(4) NATIONAL CONTINGENCY PLAN.—The term 'National Contingency Plan' has the meaning given the term in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701).

"(5) RAILROAD CARRIER.—The term 'railroad carrier' has the meaning given the term in section 20102.

"(6) WORST-CASE DISCHARGE.—The term 'worst-case discharge' means the largest foreseeable discharge of oil in the event of an accident or incident, as determined by each railroad carrier in accordance with regulations issued under this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 51 of title 49, United States Code, is amended by inserting after the item relating to section 5110 the following:

"5111. Comprehensive oil spill response plans.".

SEC. 7012. INFORMATION ON HIGH-HAZARD FLAMMABLE TRAINS.

(a) INFORMATION ON HIGH-HAZARD FLAMMABLE TRAINS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations to require each applicable railroad carrier to provide information on high-hazard flammable trains to State emergency response commissions consistent with Emergency Order Docket No. DOT–OST–2014–0067, and include appropriate protections from public release of proprietary information and security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations.

(b) HIGH-HAZARD FLAMMABLE TRAIN.—The term "high-hazard flammable train" means a single train transporting 20 or more tank cars loaded with a Class 3 flammable liquid, as such term is defined in section 173.120 of title 49, Code of Federal Regulations, in a continuous block or a single train transporting 35 or more tank cars loaded with a Class 3 flammable liquid throughout the train consist.

SEC. 7013. STUDY AND TESTING OF ELECTRONICALLY CONTROLLED PNEUMATIC BRAKES.

(a) GOVERNMENT ACCOUNTABILITY OFFICE STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct an independent evaluation of ECP brake systems, pilot program data, and the Department's research and analysis on the costs, benefits, and effects of ECP brake systems.

(2) STUDY ELEMENTS.—In completing the independent evaluation under paragraph (1), the Comptroller General of the United States shall examine the following issues related to ECP brake systems:

(A) Data and modeling results on safety benefits relative to conventional brakes and to other braking technologies or systems, such as distributed power and 2-way end-of-train devices.

(B) Data and modeling results on business benefits, including the effects of dynamic braking.

(C) Data on costs, including up-front capital costs and on-going maintenance costs.

(D) Analysis of potential operational benefits and challenges, including the effects of potential locomotive and car segregation, technical reliability issues, and network disruptions.

(E) Analysis of potential implementation challenges, including installation time, positive train control integration complexities, component availability issues, and tank car shop capabilities.

(F) Analysis of international experiences with the use of advanced braking technologies.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States 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 independent evaluation under paragraph (1).

(b) EMERGENCY BRAKING APPLICATION TESTING.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences to—

(A) complete testing of ECP brake systems during emergency braking application, including more than 1 scenario involving the uncoupling of a train with 70 or more DOT–117-specification or DOT–117R-specification tank cars; and

(B) transmit, not later than 18 months after the date of enactment of this Act, 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 testing.

(2) INDEPENDENT EXPERTS.—In completing the testing under paragraph (1)(A), the National Academy of Sciences may contract with 1 or more engineering or rail experts, as appropriate, that—

(A) are not railroad carriers, entities funded by such carriers, or entities directly impacted by the final rule issued on May 8, 2015, entitled "Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains" (80 Fed. Reg. 26643); and

(B) have relevant experience in conducting railroad safety technology tests or similar crash tests.

(3) TESTING FRAMEWORK.—In completing the testing under paragraph (1), the National Academy of Sciences and each contractor described in paragraph (2) shall ensure that the testing objectively, accurately, and reliably measures the performance of ECP brake systems relative to other braking technologies or systems, such as distributed power and 2-way end-of-train devices, including differences in—

(A) the number of cars derailed;

(B) the number of cars punctured;

(C) the measures of in-train forces; and

(D) the stopping distance.

(4) FUNDING.—The Secretary shall provide funding, as part of the agreement under paragraph (1), to the National Academy of Sciences for the testing required under this section—

(A) using sums made available to carry out sections 20108 and 5118 of title 49, United States Code; and

(B) to the extent funding under subparagraph (A) is insufficient or unavailable to fund the testing required under this section, using such sums as are necessary from the amounts appropriated to the Secretary, the Federal Railroad Administration, or the Pipeline and Hazardous Materials Safety Administration, or a combination thereof.

(5) EQUIPMENT.—The National Academy of Sciences and each contractor described in paragraph (2) may receive or use rolling stock, track, and other equipment or infrastructure from a private entity for the purposes of conducting the testing required under this section.

(c) EVIDENCE-BASED APPROACH.—

(1) ANALYSIS.—The Secretary shall—

(A) not later than 90 days after the report date, fully incorporate and update the regulatory impact analysis of the final rule described in subsection (b)(2)(A) of the costs, benefits, and effects of the applicable ECP brake system requirements;

(B) as soon as practicable after completion of the updated analysis under subparagraph (A), solicit public comment on the analysis for a period of not more than 30 days; and

(C) not later than 60 days after the end of the public comment period under subparagraph (B), post the final updated regulatory impact analysis on the Department of Transportation's Internet Web site.

(2) DETERMINATION.—Not later than 180 days after the report date, the Secretary shall—

(A) determine, based on whether the final regulatory impact analysis described in paragraph (1)(C) demonstrates that the benefits, including safety benefits, of the applicable ECP brake system requirements exceed the costs of such requirements, whether the applicable ECP brake system requirements are justified;

(B) if the applicable ECP brake system requirements are justified, publish in the Federal Register the determination and reasons for such determination; and

(C) if the Secretary does not publish the determination under subparagraph (B), repeal the applicable ECP brake system requirements.

(3) SAVINGS CLAUSE.—Nothing in this section shall be construed to prohibit the Secretary from implementing the final rule described under subsection (b)(2)(A) prior to the determination required under subsection (c)(2) of this section, or require the Secretary to promulgate a new rulemaking on the provisions of such final rule, other than the applicable ECP brake system requirements, if the Secretary determines that the applicable ECP brake system requirements are not justified pursuant to this subsection.

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

(1) APPLICABLE ECP BRAKE SYSTEM REQUIREMENTS.—The term "applicable ECP brake system requirements" means sections 174.310(a)(3)(ii), 174.310(a)(3)(iii), 174.310(a)(5)(v), 179.202–12(g), and 179.202–13(i) of title 49, Code of Federal Regulations, and any other regulation in effect on the date of enactment of this Act requiring the installation of ECP brakes or operation in ECP brake mode.

(2) CLASS 3 FLAMMABLE LIQUID.—The term "Class 3 flammable liquid" has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations.

(3) ECP.—The term "ECP" means electronically controlled pneumatic when applied to a brake or brakes.

(4) ECP BRAKE MODE.—The term "ECP brake mode" includes any operation of a rail car or an entire train using an ECP brake system.

(5) ECP BRAKE SYSTEM.—

(A) IN GENERAL.—The term "ECP brake system" means a train power braking system actuated by compressed air and controlled by electronic signals from the locomotive or an ECP–EOT to the cars in the consist for service and emergency applications in which the brake pipe is used to provide a constant supply of compressed air to the reservoirs on each car but does not convey braking signals to the car.

(B) INCLUSIONS.—The term "ECP brake system" includes dual mode and stand-alone ECP brake systems.

(6) RAILROAD CARRIER.—The term "railroad carrier" has the meaning given the term in section 20102 of title 49, United States Code.

(7) REPORT DATE.—The term "report date" means the date that the reports under subsections (a)(3) and (b)(1)(B) are required to be transmitted pursuant to those subsections.

SEC. 7014. ENSURING SAFE IMPLEMENTATION OF POSITIVE TRAIN CONTROL SYSTEMS.

(a) SHORT TITLE.—This section may be cited as the "Positive Train Control Enforcement and Implementation Act of 2015".

(b) IN GENERAL.—Section 20157 of title 49, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "18 months after the date of enactment of the Rail Safety Improvement Act of 2008" and inserting "90 days after the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015";

(B) by striking "develop and";

(C) by striking "a plan for implementing" and inserting "a revised plan for implementing";

(D) by striking "December 31, 2015" and inserting "December 31, 2018"; and

(E) in subparagraph (B) by striking "parts" and inserting "sections";

(2) by striking subsection (a)(2) and inserting the following:

"(2) IMPLEMENTATION.—

"(A) CONTENTS OF REVISED PLAN.—A revised plan required under paragraph (1) shall—

"(i) describe—

"(I) how the positive train control system will provide for interoperability of the system with the movements of trains of other railroad carriers over its lines; and

"(II) how, to the extent practical, the positive train control system will be implemented in a manner that addresses areas of greater risk before areas of lesser risk;

"(ii) comply with the positive train control system implementation plan content requirements under section 236.1011 of title 49, Code of Federal Regulations; and

"(iii) provide—

"(I) the calendar year or years in which spectrum will be acquired and will be available for use in each area as needed for positive train control system implementation, if such spectrum is not already acquired and available for use;

"(II) the total amount of positive train control system hardware that will be installed for implementation, with totals separated by each major hardware category;

"(III) the total amount of positive train control system hardware that will be installed by the end of each calendar year until the positive train control system is implemented, with totals separated by each hardware category;

"(IV) the total number of employees required to receive training under the applicable positive train control system regulations;

"(V) the total number of employees that will receive the training, as required under the applicable positive train control system regulations, by the end of each calendar year until the positive train control system is implemented;

"(VI) a summary of any remaining technical, programmatic, operational, or other challenges to the implementation of a positive train control system, including challenges with—

"(aa) availability of public funding;

"(bb) interoperability;

"(cc) spectrum;

"(dd) software;

"(ee) permitting; and

"(ff) testing, demonstration, and certification; and

"(VII) a schedule and sequence for implementing a positive train control system by the deadline established under paragraph (1).

"(B) ALTERNATIVE SCHEDULE AND SEQUENCE.—Notwithstanding the implementation deadline under paragraph (1) and in lieu of a schedule and sequence under paragraph (2)(A)(iii)(VII), a railroad carrier or other entity subject to paragraph (1) may include in its revised plan an alternative schedule and sequence for implementing a positive train control system, subject to review under paragraph (3). Such schedule and sequence shall provide for implementation of a positive train control system as soon as practicable, but not later than the date that is 24 months after the implementation deadline under paragraph (1).

"(C) AMENDMENTS.—A railroad carrier or other entity subject to paragraph (1) may file a request to amend a revised plan, including any alternative schedule and sequence, as applicable, in accordance with section 236.1021 of title 49, Code of Federal Regulations.

"(D) COMPLIANCE.—A railroad carrier or other entity subject to paragraph (1) shall implement a positive train control system in accordance with its

revised plan, including any amendments or any alternative schedule and sequence approved by the Secretary under paragraph (3).

"(3) SECRETARIAL REVIEW.—

"(A) NOTIFICATION.—A railroad carrier or other entity that submits a revised plan under paragraph (1) and proposes an alternative schedule and sequence under paragraph (2)(B) shall submit to the Secretary a written notification when such railroad carrier or other entity is prepared for review under subparagraph (B).

"(B) CRITERIA.—Not later than 90 days after a railroad carrier or other entity submits a notification under subparagraph (A), the Secretary shall review the alternative schedule and sequence submitted pursuant to paragraph (2)(B) and determine whether the railroad carrier or other entity has demonstrated, to the satisfaction of the Secretary, that such carrier or entity has—

"(i) installed all positive train control system hardware consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(II) on or before the implementation deadline under paragraph (1);

"(ii) acquired all spectrum necessary for implementation of a positive train control system, consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(I) on or before the implementation deadline under paragraph (1);

"(iii) completed employee training required under the applicable positive train control system regulations;

"(iv) included in its revised plan an alternative schedule and sequence for implementing a positive train control system as soon as practicable, pursuant to paragraph (2)(B);

"(v) certified to the Secretary in writing that it will be in full compliance with the requirements of this section on or before the date provided in an alternative schedule and sequence, subject to approval by the Secretary;

"(vi) in the case of a Class I railroad carrier and Amtrak, implemented a positive train control system or initiated revenue service demonstration on the majority of territories, such as subdivisions or districts, or route miles that are owned or controlled by such carrier and required to have operations governed by a positive train control system; and

"(vii) in the case of any other railroad carrier or other entity not subject to clause (vi)—

"(I) initiated revenue service demonstration on at least 1 territory that is required to have operations governed by a positive train control system; or

"(II) met any other criteria established by the Secretary.

"(C) DECISION.—

"(i) IN GENERAL.—Not later than 90 days after the receipt of the notification from a railroad carrier or other entity under subparagraph (A), the Secretary shall—

"(I) approve an alternative schedule and sequence submitted pursuant to paragraph (2)(B) if the railroad carrier or other entity meets the criteria in subparagraph (B); and

"(II) notify in writing the railroad carrier or other entity of the decision.

"(ii) DEFICIENCIES.—Not later than 45 days after the receipt of the notification under subparagraph (A), the Secretary shall provide to the railroad carrier or other entity a written notification of any deficiencies that would prevent approval under clause (i) and provide the railroad carrier or other entity an opportunity to correct deficiencies before the date specified in such clause.

"(D) REVISED DEADLINES.—

"(i) PENDING REVIEWS.—For a railroad carrier or other entity that submits a notification under subparagraph (A), the deadline for implementation of a positive train control system required under paragraph (1) shall be extended until the date on which the Secretary approves or disapproves the alternative schedule and sequence, if such date is later than the implementation date under paragraph (1).

"(ii) ALTERNATIVE SCHEDULE AND SEQUENCE DEADLINE.—If the Secretary approves a railroad carrier or other entity's alternative schedule and sequence under subparagraph (C)(i), the railroad carrier or other entity's deadline for implementation of a positive train control system required under paragraph (1) shall be the date specified in that rail-

road carrier or other entity's alternative schedule and sequence. The Secretary may not approve a date for implementation that is later than 24 months from the deadline in paragraph (1).";

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

"(c) PROGRESS REPORTS AND REVIEW.—

"(1) PROGRESS REPORTS.—Each railroad carrier or other entity subject to subsection (a) shall, not later than March 31, 2016, and annually thereafter until such carrier or entity has completed implementation of a positive train control system, submit to the Secretary a report on the progress toward implementing such systems, including—

"(A) the information on spectrum acquisition provided pursuant to subsection (a)(2)(A)(iii)(I);

"(B) the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii), by territory, if applicable;

"(C) the extent to which the railroad carrier or other entity is complying with the implementation schedule under subsection (a)(2)(A)(iii)(VII) or subsection (a)(2)(B);

"(D) any update to the information provided under subsection (a)(2)(A)(iii)(VI);

"(E) for each entity providing regularly scheduled intercity or commuter rail passenger transportation, a description of the resources identified and allocated to implement a positive train control system;

"(F) for each railroad carrier or other entity subject to subsection (a), the total number of route miles on which a positive train control system has been initiated for revenue service demonstration or implemented, as compared to the total number of route miles required to have a positive train control system under subsection (a); and

"(G) any other information requested by the Secretary.

"(2) PLAN REVIEW.—The Secretary shall at least annually conduct reviews to ensure that railroad carriers or other entities are complying with the revised plan submitted under subsection (a), including any amendments or any alternative schedule and sequence approved by the Secretary. Such railroad carriers or other entities shall provide such information as the Secretary determines necessary to adequately conduct such reviews.

"(3) PUBLIC AVAILABILITY.—Not later than 60 days after receipt, the Secretary shall make available to the public on the Internet Web site of the Department of Transportation any report submitted pursuant to paragraph (1) or subsection (d), but may exclude, as the Secretary determines appropriate—

"(A) proprietary information; and

"(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations.

"(d) REPORT TO CONGRESS.—Not later than July 1, 2018, 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 progress of each railroad carrier or other entity subject to subsection (a) in implementing a positive train control system.

"(e) ENFORCEMENT.—The Secretary is authorized to assess civil penalties pursuant to chapter 213 for—

"(1) a violation of this section;

"(2) the failure to submit or comply with the revised plan required under subsection (a), including the failure to comply with the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii) and the spectrum acquisition dates provided pursuant to subsection (a)(2)(A)(iii)(I);

"(3) failure to comply with any amendments to such revised plan pursuant to subsection (a)(2)(C); and

"(4) the failure to comply with an alternative schedule and sequence submitted under subsection (a)(2)(B) and approved by the Secretary under subsection (a)(3)(C).";

(4) in subsection (h)—

(A) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(B) by adding at the end the following:

"(2) PROVISIONAL OPERATION.—Notwithstanding the requirements of paragraph (1), the Secretary may authorize a railroad carrier or other entity to commence operation in revenue service of a positive train control system or component to the extent necessary to enable the safe implementation and operation of a positive train control system in phases.";

(5) in subsection (i)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (3) through (5), respectively; and

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

"(1) EQUIVALENT OR GREATER LEVEL OF SAFETY.—The term 'equivalent or greater level of safety' means the compliance of a railroad carrier with—

"(A) appropriate operating rules in place immediately prior to the use or implementation of such carrier's positive train control system, except that such rules may be changed by such carrier to improve safe operations; and

"(B) all applicable safety regulations, except as specified in subsection (j).

"(2) HARDWARE.—The term 'hardware' means a locomotive apparatus, a wayside interface unit (including any associated legacy signal system replacements), switch position monitors needed for a positive train control system, physical back office system equipment, a base station radio, a wayside radio, a locomotive radio, or a communication tower or pole."; and

(6) by adding at the end the following:

"(j) EARLY ADOPTION.—

"(1) OPERATIONS.—From the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015 through the 1-year period beginning on the date on which the last Class I railroad carrier's positive train control system subject to subsection (a) is certified by the Secretary under subsection (h)(1) of this section and is implemented on all of that railroad carrier's lines required to have operations governed by a positive train control system, any railroad carrier, including any railroad carrier that has its positive train control system certified by the Secretary, shall not be subject to the operational restrictions set forth in sections 236.567 and 236.1029 of title 49, Code of Federal Regulations, that would apply where a controlling locomotive that is operating in, or is to be operated in, a positive train control-equipped track segment experiences a positive train control system failure, a positive train control operated consist is not provided by another railroad carrier when provided in interchange, or a positive train control system otherwise fails to initialize, cuts out, or malfunctions, provided that such carrier operates at an equivalent or greater level of safety than the level achieved immediately prior to the use or implementation of its positive train control system.

"(2) SAFETY ASSURANCE.—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall make reasonable efforts to determine the cause of the failure and adjust, repair, or replace any faulty component causing the system failure in a timely manner.

"(3) PLANS.—The positive train control safety plan for each railroad carrier or other entity shall describe the safety measures, such as operating rules and actions to comply with applicable safety regulations, that will be put in place during any system failure.

"(4) NOTIFICATION.—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall submit a notification to the appropriate regional office of the Federal Railroad Administration within 7 days of the system failure, or under alternative location and deadline requirements set by the Secretary, and include in the notification a description of the safety measures the affected railroad carrier or other entity has in place.

"(k) SMALL RAILROADS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall amend section 236.1006(b)(4)(iii)(B) of title 49, Code of Federal Regulations (relating to equipping locomotives for applicable Class II and Class III railroads operating in positive train control territory) to extend each deadline under such section by 3 years.

"(l) REVENUE SERVICE DEMONSTRATION.—When a railroad carrier or other entity subject to (a)(1) notifies the Secretary it is prepared to initiate revenue service demonstration, it shall also notify any applicable tenant railroad carrier or other entity subject to subsection (a)(1).".

(c) CONFORMING AMENDMENT.—Section 20157(g), is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(2) CONFORMING REGULATORY AMENDMENTS.—Immediately after the date of the enactment of the Positive Train Control Enforcement and Implementation Act of 2015, the Secretary—

"(A) shall remove or revise the date-specific deadlines in the regulations or orders implementing this section to the extent necessary to conform with the amendments made by such Act; and

"(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the amendments made by such Act.

"(3) REVIEW.—Nothing in the Positive Train Control Enforcement and Implementation Act of 2015, or the amendments made by such Act, shall be construed to require the Secretary to issue regulations to implement such Act or amendments other than the regulatory amendments required by paragraph (2) and subsection (k).".

SEC. 7015. PHASE-OUT OF ALL TANK CARS USED TO TRANSPORT CLASS 3 FLAMMABLE LIQUIDS.

(a) IN GENERAL.—Except as provided for in subsection (b), beginning on the date of enactment of this Act, all railroad tank cars used to transport Class 3 flammable liquids shall meet the DOT–117 or DOT–117R specifications in part 179 of title 49, Code of Federal Regulations, regardless of train composition.

(b) PHASE-OUT SCHEDULE.—Certain tank cars not meeting DOT–117 or DOT–117R specifications on the date of enactment of this Act may be used, regardless of train composition, until the following end-dates:

(1) For transport of unrefined petroleum products in Class 3 flammable service, including crude oil—

(A) January 1, 2018, for non-jacketed DOT–111 tank cars;

(B) March 1, 2018, for jacketed DOT–111 tank cars;

(C) April 1, 2020, for non-jacketed CPC–1232 tank cars; and

(D) May 1, 2025, for jacketed CPC–1232 tank cars.

(2) For transport of ethanol—

(A) May 1, 2023, for non-jacketed and jacketed DOT–111 tank cars;

(B) July 1, 2023, for non-jacketed CPC–1232 tank cars; and

(C) May 1, 2025, for jacketed CPC–1232 tank cars.

(3) For transport of Class 3 flammable liquids in Packing Group I, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2025.

(4) For transport of Class 3 flammable liquids in Packing Groups II and III, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2029.

(c) RETROFITTING SHOP CAPACITY.—The Secretary may extend the deadlines established under paragraphs (3) and (4) of subsection (b) for a period not to exceed 2 years if the Secretary determines that insufficient retrofitting shop capacity will prevent the phase-out of tank cars not meeting the DOT–117 or DOT–117R specifications by the deadlines set forth in such paragraphs.

(d) IMPLEMENTATION.—Nothing in this section shall be construed to require the Secretary to issue regulations to implement this section.

(e) SAVINGS CLAUSE.—Nothing in this section shall be construed to prohibit the Secretary from implementing the final rule issued on May 08, 2015, entitled "Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains" (80 Fed. Reg. 26643), other than the provisions of the final rule that are inconsistent with this section.

(f) CLASS 3 FLAMMABLE LIQUID DEFINED.—In this section, the term "Class 3 flammable liquid" has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations.

TITLE VIII—MULTIMODAL FREIGHT TRANSPORTATION

SEC. 8001. MULTIMODAL FREIGHT TRANSPORTATION.

(a) IN GENERAL.—Subtitle IX of title 49, United States Code, is amended to read as follows:

"Subtitle IX—Multimodal Freight Transportation

"Chapter	Sec.
"701. Multimodal freight policy	70101
"702. Multimodal freight transportation planning and information	70201

"CHAPTER 701—MULTIMODAL FREIGHT POLICY

"Sec.

"70101. National multimodal freight policy.
"70102. National freight strategic plan.
"70103. National Multimodal Freight Network.

"§ 70101. National multimodal freight policy

"(a) IN GENERAL.—It is the policy of the United States to maintain and improve the condition and performance of the National Multimodal Freight Network established under section 70103 to ensure that the Network provides a foundation for the United States to compete in the global economy and achieve the goals described in subsection (b).

"(b) GOALS.—The goals of the national multimodal freight policy are—

"(1) to identify infrastructure improvements, policies, and operational innovations that—

"(A) strengthen the contribution of the National Multimodal Freight Network to the economic competitiveness of the United States;

"(B) reduce congestion and eliminate bottlenecks on the National Multimodal Freight Network; and

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

"(2) to improve the safety, security, efficiency, and resiliency of multimodal freight transportation;

"(3) to achieve and maintain a state of good repair on the National Multimodal Freight Network;

"(4) to use innovation and advanced technology to improve the safety, efficiency, and reliability of the National Multimodal Freight Network;

"(5) to improve the economic efficiency of the National Multimodal Freight Network;

"(6) to improve the short- and long-distance movement of goods that—

"(A) travel across rural areas between population centers;

"(B) travel between rural areas and population centers; and

"(C) travel from the Nation's ports, airports, and gateways to the National Multimodal Freight Network;

"(7) to improve the flexibility of States to support multi-State corridor planning and the creation of multi-State organizations to increase the ability of States to address multimodal freight connectivity; and

"(8) to reduce the adverse environmental impacts of freight movement on the National Multimodal Freight Network.

"§ 70102. National freight strategic plan

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Secretary of Transportation shall—

"(1) develop a national freight strategic plan in accordance with this section; and

"(2) publish the plan on the public Internet Web site of the Department of Transportation.

"(b) CONTENTS.—The national freight strategic plan shall include—

"(1) an assessment of the condition and performance of the National Multimodal Freight Network;

"(2) forecasts of freight volumes for the succeeding 5-, 10-, and 20-year periods;

"(3) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators;

"(4) an identification of bottlenecks on the National Multimodal Freight Network that create significant freight congestion, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include—

"(A) information from the Freight Analysis Framework of the Federal Highway Administration; and

"(B) to the maximum extent practicable, an estimate of the cost of addressing each bottleneck and any operational improvements that could be implemented;

"(5) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance, and a description of opportunities for overcoming the barriers;

"(6) an identification of best practices for improving the performance of the National Multimodal Freight Network;

"(7) a process for addressing multistate projects and encouraging jurisdictions to collaborate; and

"(8) strategies to improve freight intermodal connectivity.

"(c) UPDATES.—Not later than 5 years after the date of completion of the national freight strategic plan under subsection (a), and every 5 years thereafter, the Secretary shall update the plan and publish the updated plan on the public Internet Web site of the Department of Transportation.

"(d) CONSULTATION.—The Secretary shall develop and update the national freight strategic plan in consultation with State departments of transportation, metropolitan planning organizations, and other appropriate public and private transportation stakeholders.

"§ 70103. National Multimodal Freight Network

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of Transportation shall establish the National Multimodal Freight Network in accordance with this section—

"(1) to focus Federal policy on the most strategic freight assets; and

"(2) to assist in strategically directing resources and policies toward improved performance of the National Multimodal Freight Network.

"(b) NETWORK COMPONENTS.—The National Multimodal Freight Network shall include—

"(1) the National Highway Freight Network, as established under section 167 of title 23;

"(2) the freight rail systems of Class I railroads, as designated by the Surface Transportation Board;

"(3) the public ports of the United States that have total annual foreign and domestic trade of at least 2,000,000 short tons, as identified by the Waterborne Commerce Statistics Center of the Army Corps of Engineers, using the data from the latest year for which such data is available;

"(4) the inland and intracoastal waterways of the United States, as described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804);

"(5) the Great Lakes, the St. Lawrence Seaway, and coastal routes along which domestic freight is transported;

"(6) the 50 airports located in the United States with the highest annual landed weight, as identified by the Federal Aviation Administration; and

"(7) other strategic freight assets, including strategic intermodal facilities and freight rail lines of Class II and Class III railroads, designated by the Secretary as critical to interstate commerce.

"(c) OTHER STRATEGIC FREIGHT ASSETS.—In determining network components in subsection (b), the Secretary may consider strategic freight assets identified by States, including public ports if such ports do not meet the annual tonnage threshold, for inclusion on the National Multimodal Freight Network.

"(d) REDESIGNATION.—Not later than 5 years after the date of establishment of the National Multimodal Freight Network under subsection (a), and every 5 years thereafter, the Secretary shall update the National Multimodal Freight Network.

"(e) CONSULTATION.—The Secretary shall establish and update the National Multimodal Freight Network in consultation with State departments of transportation and other appropriate public and private transportation stakeholders.

"(f) LANDED WEIGHT DEFINED.—In this section, the term 'landed weight' means the weight of an aircraft transporting only cargo in intrastate, interstate, or foreign air transportation, as such terms are defined in section 40102(a).

"CHAPTER 702—MULTIMODAL FREIGHT TRANSPORTATION PLANNING AND INFORMATION

"Sec.
"70201. State freight advisory committees.
"70202. State freight plans.
"70203. Data and tools.

"§ 70201. State freight advisory committees

"(a) IN GENERAL.—The Secretary of Transportation 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, freight railroads, shippers, carriers, freight-related associations, third-party logistics providers, the freight industry workforce, the transportation department of the State, and local governments.

"(b) ROLE OF COMMITTEE.—A freight advisory committee of a State 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 freight plan of the State described in section 70202.

"§ 70202. State freight plans

"(a) IN GENERAL.—Each State shall develop a freight plan that provides a comprehensive plan for the immediate and long-range planning activities and investments of the State 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 freight-related transportation investment decisions of the State;

"(3) a description of how the plan will improve the ability of the State to meet the national freight goals described in section 70101;

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

"(5) in the case of routes on which travel by heavy vehicles (including mining, agricultural, energy cargo or equipment, and timber vehicles) is projected to substantially deteriorate the condition of roadways, a description of improvements that may be required to reduce or impede the deterioration; and

"(6) an inventory of facilities with freight mobility issues, such as truck bottlenecks, within the State, and a description of the strategies the State is employing to address those freight mobility issues.

"(c) RELATIONSHIP TO STATE PLANS.—

"(1) IN GENERAL.—A freight plan described in subsection (a) may be developed separately from or incorporated into the statewide transportation plans required by section 135 of title 23.

"(2) UPDATES.—If the freight plan described in subsection (a) is developed separately from the State transportation improvement program, the freight plan shall be updated at least every 5 years.

"§ 70203. Data and tools

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall—

"(1) begin development of new tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

"(A) methodologies for systematic analysis of benefits and costs;

"(B) tools for ensuring that the evaluation of freight-related and other transportation projects may consider safety, economic competitiveness, environmental sustainability, and system condition in the project selection process; and

"(C) other elements to assist in effective transportation planning;

"(2) identify transportation-related freight travel models and model data elements to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions; and

"(3) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data collection efforts, including improved methods to standardize and manage the data, that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

"(b) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to develop, improve, and implement the tools and collect the data described in subsection (a).".

(b) CLERICAL AMENDMENT.—The analysis of subtitles for title 49, United States Code, is amended by striking the item relating to subtitle IX and inserting the following:

"IX. Multimodal Freight Transportation ..... 70101".

(c) REPEALS.—Sections 1117 and 1118 of MAP–21 (Public Law 112–141), and the items relating to such sections in the table of contents in section 1(c) of such Act, are repealed.

TITLE IX—NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU

SEC. 9001. NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU.

(a) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 116. National Surface Transportation and Innovative Finance Bureau

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a National Surface Transportation and Innovative Finance Bureau in the Department.

"(b) PURPOSES.—The purposes of the Bureau shall be—

"(1) to administer the application processes for programs within the Department in accordance with subsection (d);

"(2) to promote innovative financing best practices in accordance with subsection (e);

"(3) to reduce uncertainty and delays with respect to environmental reviews and permitting in accordance with subsection (f);

"(4) to reduce costs and risks to taxpayers in project delivery and procurement in accordance with subsection (g); and

"(5) to carry out subtitle IX of this title.

"(c) EXECUTIVE DIRECTOR.—

"(1) APPOINTMENT.—The Bureau shall be headed by an Executive Director, who shall be appointed in the competitive service by the Secretary, with the approval of the President.

"(2) DUTIES.—The Executive Director shall—

"(A) report to the Under Secretary of Transportation for Policy;

"(B) be responsible for the management and oversight of the daily activities, decisions, operations, and personnel of the Bureau;

"(C) support the Council on Credit and Finance established under section 117 in accordance with this section; and

"(D) carry out such additional duties as the Secretary may prescribe.

"(d) ADMINISTRATION OF CERTAIN APPLICATION PROCESSES.—

"(1) IN GENERAL.—The Bureau shall administer the application processes for the following programs:

"(A) The infrastructure finance programs authorized under chapter 6 of title 23.

"(B) The railroad rehabilitation and improvement financing program authorized under sections 501 through 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821–823).

"(C) Amount allocations authorized under section 142(m) of the Internal Revenue Code of 1986.

"(D) The nationally significant freight and highway projects program under section 117 of title 23.

"(2) CONGRESSIONAL NOTIFICATION.—The Secretary shall ensure that the congressional notification requirements for each program referred to in paragraph (1) are followed in accordance with the statutory provisions applicable to the program.

"(3) REPORTS.—The Secretary shall ensure that the reporting requirements for each program referred to in paragraph (1) are followed in accordance with the statutory provisions applicable to the program.

"(4) COORDINATION.—In administering the application processes for the programs referred to in paragraph (1), the Executive Director of the Bureau shall coordinate with appropriate officials in the Department and its modal administrations responsible for administering such programs.

"(5) STREAMLINING APPROVAL PROCESSES.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Environment and Public Works of the Senate a report that—

"(A) evaluates the application processes for the programs referred to in paragraph (1);

"(B) identifies administrative and legislative actions that would improve the efficiency of the application processes without diminishing Federal oversight; and

"(C) describes how the Secretary will implement administrative actions identified under subparagraph (B) that do not require an Act of Congress.

"(6) PROCEDURES AND TRANSPARENCY.—

"(A) PROCEDURES.—The Secretary shall, with respect to the programs referred to in paragraph (1)—

"(i) establish procedures for analyzing and evaluating applications and for utilizing the recommendations of the Council on Credit and Finance;

"(ii) establish procedures for addressing late-arriving applications, as applicable, and communicating the Bureau's decisions for accepting or rejecting late applications to the applicant and the public; and

"(iii) document major decisions in the application evaluation process through a decision memorandum or similar mechanism that provides a clear rationale for such decisions.

"(B) REVIEW.—

"(i) IN GENERAL.—The Comptroller General of the United States shall review the compliance of the Secretary with the requirements of this paragraph.

"(ii) RECOMMENDATIONS.—The Comptroller General may make recommendations to the Secretary in order to improve compliance with the requirements of this paragraph.

"(iii) REPORT.—Not later than 3 years after the date of enactment of this section, the Comptroller General 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 Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under clause (i), including findings and recommendations for improvement.

"(e) INNOVATIVE FINANCING BEST PRACTICES.—

"(1) IN GENERAL.—The Bureau shall work with the modal administrations within the Department, the States, and other public and private interests to develop and promote best practices for innovative financing and public-private partnerships.

"(2) ACTIVITIES.—The Bureau shall carry out paragraph (1)—

"(A) by making Federal credit assistance programs more accessible to eligible recipients;

"(B) by providing advice and expertise to State and local governments that seek to leverage public and private funding;

"(C) by sharing innovative financing best practices and case studies from State and local governments with other State and local governments that are interested in utilizing innovative financing methods; and

"(D) by developing and monitoring—

"(i) best practices with respect to standardized State public-private partnership authorities and practices, including best practices related to—

"(I) accurate and reliable assumptions for analyzing public-private partnership procurements;

"(II) procedures for the handling of unsolicited bids;

"(III) policies with respect to noncompete clauses; and

"(IV) other significant terms of public-private partnership procurements, as determined appropriate by the Bureau;

"(ii) standard contracts for the most common types of public-private partnerships for transportation facilities; and

"(iii) analytical tools and other techniques to aid State and local governments in determining the appropriate project delivery model, including a value for money analysis.

"(3) TRANSPARENCY.—The Bureau shall—

"(A) ensure transparency of a project receiving credit assistance under a program identified in subsection (d)(1) and procured as a public-private partnership by—

"(i) requiring the project sponsor of such project to undergo a value for money analysis or a comparable analysis prior to deciding to advance the project as a public-private partnership;

"(ii) requiring the analysis required under subparagraph (A) and other key terms of the relevant public-private partnership agreement, to be made publicly available by the project sponsor at an appropriate time;

"(iii) not later than 3 years after the completion of the project, requiring the project sponsor of such project to conduct a review regarding whether the private partner is meeting the terms of the relevant public private partnership agreement for the project; and

"(iv) providing a publicly available summary of the total level of Federal assistance in such project; and

"(B) develop guidance to implement this paragraph that takes into consideration variations in State and local laws and requirements related to public-private partnerships.

"(4) SUPPORT TO PROJECTS SPONSORS.—At the request of a State or local government, the Bureau shall provide technical assistance to the State or local government regarding proposed public-private partnership agreements for transportation facilities, including assistance in performing a value for money analysis or comparable analysis.

"(5) FIXED GUIDEWAY TRANSIT PROCEDURES REPORT.—Not later than 1 year after the date of enactment of this section, 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 that—

"(A) evaluates the differences between traditional design-bid-build, design-build, and public-private partnership procurements for projects carried out under the fixed guideway capital investment program authorized under section 5309;

"(B) identifies, for project procured as public-private partnerships whether the review and approval process under the program requires modification to better suit the unique nature of such procurements; and

"(C) describes how the Secretary will implement any administrative actions identified under subparagraph (B) that do not require an Act of Congress.

"(f) ENVIRONMENTAL REVIEW AND PERMITTING.—

"(1) IN GENERAL.—The Bureau shall take such actions as are appropriate and consistent with the goals and policies set forth in this title and title 23, including with the concurrence of other Federal agencies as required under this title and title 23, to improve delivery timelines for projects.

"(2) ACTIVITIES.—The Bureau shall carry out paragraph (1)—

"(A) by serving as the Department's liaison to the Council on Environmental Quality;

"(B) by coordinating Department-wide efforts to improve the efficiency and effectiveness of the environmental review and permitting process;

"(C) by coordinating Department efforts under section 139 of title 23;

"(D) by supporting modernization efforts at Federal agencies to achieve innovative approaches to the permitting and review of projects;

"(E) by providing technical assistance and training to field and headquarters staff of Federal agencies on policy changes and innovative approaches to the delivery of projects;

"(F) by identifying, developing, and tracking metrics for permit reviews and decisions by Federal agencies for projects under the National Environmental Policy Act of 1969; and

"(G) by administering and expanding the use of Internet-based tools providing for—

"(i) the development and posting of schedules for permit reviews and permit decisions for projects; and

"(ii) the sharing of best practices related to efficient permitting and reviews for projects.

"(3) SUPPORT TO PROJECT SPONSORS.—At the request of a State or local government, the Bureau, in coordination with the other appropriate modal agencies within the Department, shall provide technical assistance with regard to the compliance of a project sponsored by the State or local government with the requirements of the National Environmental Policy Act 1969 and relevant Federal environmental permits.

"(g) PROJECT PROCUREMENT.—

"(1) IN GENERAL.—The Bureau shall promote best practices in procurement for a project receiving assistance under a program identified in subsection (d)(1) by developing, in coordination with the Federal Highway Administration and other modal agencies as appropriate, procurement benchmarks in order to ensure accountable expenditure of Federal assistance over the life cycle of such project.

"(2) PROCUREMENT BENCHMARKS.—The procurement benchmarks developed under paragraph (1) shall, to the maximum extent practicable—

"(A) establish maximum thresholds for acceptable project cost increases and delays in project delivery;

"(B) establish uniform methods for States to measure cost and delivery changes over the life cycle of a project; and

"(C) be tailored, as necessary, to various types of project procurements, including design-bid-build, design-build, and public private partnerships.

"(h) ELIMINATION AND CONSOLIDATION OF DUPLICATIVE OFFICES.—

"(1) ELIMINATION OF OFFICES.—The Secretary may eliminate any office within the Department if the Secretary determines that the purposes of the office are duplicative of the purposes of the Bureau, and the elimination of such office shall not adversely affect the obligations of the Secretary under any Federal law.

"(2) CONSOLIDATION OF OFFICES.—The Secretary may consolidate any office within the Department into the Bureau that the Secretary determines has duties, responsibilities, resources, or expertise that support the purposes of the Bureau.

"(3) STAFFING AND BUDGETARY RESOURCES.—

"(A) IN GENERAL.—The Secretary shall ensure that the Bureau is adequately staffed and funded.

"(B) STAFFING.—The Secretary may transfer to the Bureau a position within the Department from any office that is eliminated or consolidated under this subsection if the Secretary determines that the position is necessary to carry out the purposes of the Bureau.

"(C) BUDGETARY RESOURCES.—

"(i) TRANSFER OF FUNDS FROM ELIMINATED OR CONSOLIDATED OFFICES.—The Secretary may transfer to the Bureau funds allocated to any office that is eliminated or consolidated under this subsection to carry out the purposes of the Bureau.

"(ii) TRANSFER OF FUNDS ALLOCATED TO ADMINISTRATIVE COSTS.—The Secretary shall transfer to the Bureau funds allocated to the administrative costs of processing applications for the programs referred to in subsection (d)(1).

"(4) REPORT.—Not later than 180 days after the date of enactment of this section, the Secretary 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 Commerce, Science, and Transportation of the Senate a report that—

"(A) lists the offices eliminated under paragraph (1) and provides the rationale for elimination of the offices;

"(B) lists the offices consolidated under paragraph (2) and provides the rationale for consolidation of the offices; and

"(C) describes the actions taken under paragraph (3) and provides the rationale for taking such actions.

"(i) SAVINGS PROVISIONS.—

"(1) LAWS AND REGULATIONS.—Nothing in this section may be construed to change a law or regulation with respect to a program referred to in subsection (d)(1).

"(2) RESPONSIBILITIES.—Nothing in this section may be construed to abrogate the responsibilities of an agency, operating administration, or office within the Department otherwise charged by a law or regulation with other aspects of program administration, oversight, and project approval or implementation for the programs and projects subject to this section.

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

"(1) BUREAU.—The term 'Bureau' means the National Surface Transportation and Innovative Finance Bureau of the Department.

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

"(3) MULTIMODAL PROJECT.—The term 'multimodal project' means a project involving the participation of more than one modal administration or secretarial office within the Department.

"(4) PROJECT.—The term 'project' means a highway project, public transportation capital project, freight or passenger rail project, or multimodal project.".

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

"116. National Surface Transportation and Innovative Finance Bureau.".

SEC. 9002. COUNCIL ON CREDIT AND FINANCE.

(a) IN GENERAL.—Chapter 1 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following:

"§ 117. Council on Credit and Finance

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Council on Credit and Finance in accordance with this section.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Council shall be composed of the following members:

"(A) The Under Secretary of Transportation for Policy.

"(B) The Chief Financial Officer and Assistant Secretary for Budget and Programs.

"(C) The General Counsel of the Department of Transportation.

"(D) The Assistant Secretary for Transportation Policy.

"(E) The Administrator of the Federal Highway Administration.

"(F) The Administrator of the Federal Transit Administration.

"(G) The Administrator of the Federal Railroad Administration.

"(2) ADDITIONAL MEMBERS.—The Secretary may designate up to 3 additional officials of the Department to serve as at-large members of the Council.

"(3) CHAIRPERSON AND VICE CHAIRPERSON.—

"(A) CHAIRPERSON.—The Under Secretary of Transportation for Policy shall serve as the chairperson of the Council.

"(B) VICE CHAIRPERSON.—The Chief Financial Officer and Assistant Secretary for Budget and Programs shall serve as the vice chairperson of the Council.

"(4) EXECUTIVE DIRECTOR.—The Executive Director of the National Surface Transportation and Innovative Finance Bureau shall serve as a nonvoting member of the Council.

"(c) DUTIES.—The Council shall—

"(1) review applications for assistance submitted under the programs referred to in section 116(d)(1);

"(2) make recommendations to the Secretary regarding the selection of projects to receive assistance under the programs referred to in section 116(d)(1);

"(3) review, on a regular basis, projects that received assistance under the programs referred to in section 116(d)(1); and

"(4) carry out such additional duties as the Secretary may prescribe.".

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

"117. Council on Credit and Finance.".

TITLE X—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY

SEC. 10001. ALLOCATIONS.

(a) AUTHORIZATION.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended by striking "57 percent" and inserting "58.012 percent".

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

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "For each" and all that follows through "the balance" and inserting "For each fiscal year through fiscal year 2021, the balance"; and

(ii) by striking "multistate conservation grants under section 14" and inserting "activities under section 14(e)";

(B) in paragraph (1), by striking "18.5" percent and inserting "18.673 percent";

(C) in paragraph (2) by striking "18.5 percent" and inserting "17.315 percent";

(D) by striking paragraphs (3) and (4);

(E) by redesignating paragraph (5) as paragraph (4); and

(F) by inserting after paragraph (2) the following:

"(3) BOATING INFRASTRUCTURE IMPROVEMENT.—

"(A) IN GENERAL.—An amount equal to 4 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) and section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(B) LIMITATION.—Not more than 75 percent of the amount under subparagraph (A) shall be available for projects under either of the sections referred to in subparagraph (A).";

(2) in subsection (b)—

(A) in paragraph (1)(A) by striking "for each" and all that follows through "the Secretary" and inserting "for each fiscal year through fiscal year 2021, the Secretary";

(B) by redesignating paragraph (2) as paragraph (3);

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

"(2) SET-ASIDE FOR COAST GUARD ADMINISTRATION.—

"(A) IN GENERAL.—From the annual appropriation made in accordance with section 3, for each of fiscal years 2016 through 2021, the Secretary of the department in which the Coast Guard is operating may use no more than the amount specified in subparagraph (B) for the fiscal year for the purposes set forth in section 13107(c) of title 46, United States Code. 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 fiscal year 2016, $7,800,000;

"(ii) for fiscal year 2017, $7,900,000;

"(iii) for fiscal year 2018, $8,000,000;

"(iv) for fiscal year 2019, $8,100,000;

"(v) for fiscal year 2020, $8,200,000; and

"(vi) for fiscal year 2021, $8,300,000."; and

(D) in paragraph (3), as so redesignated—

(i) in subparagraph (A), by striking "until the end of the fiscal year." and inserting "until the end of the subsequent fiscal year."; and

(ii) in subparagraph (B) by striking "under subsection (e)" and inserting "under subsection (c)";

(3) in subsection (c)—

(A) by striking "(c) The Secretary" and inserting "(c)(1) The Secretary,";

(B) by striking "grants under section 14 of this title" and inserting "activities under section 14(e)";

(C) by striking "57 percent" and inserting "58.012 percent"; and

(D) by adding at the end the following:

"(2) The Secretary shall deduct from the amount to be apportioned under paragraph (1) the amounts used for grants under section 14(a)."; and

(4) in subsection (e)(1), by striking "those subsections," and inserting "those paragraphs,".

(c) SUBMISSION AND APPROVAL OF PLANS AND PROJECTS.—Section 6(d) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777e(d)) is amended by striking "for appropriations" and inserting "from appropriations".

(d) UNEXPENDED OR UNOBLIGATED FUNDS.—Section 8(b)(2) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777g(b)(2)) is amended by striking "57 percent" and inserting "58.012 percent".

(e) COOPERATION.—Section 12 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777k) is amended—

(1) by striking "57 percent" and inserting "58.012 percent"; and

(2) by striking "under section 4(b)" and inserting "under section 4(c)".

(f) OTHER ACTIVITIES.—Section 14 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777m) is amended—

(1) in subsection (a)(1), by striking "of each annual appropriation made in accordance with the provisions of section 3"; and

(2) in subsection (e)—

(A) in the matter preceding paragraph (1) by striking "Of amounts made available under section 4(b) for each fiscal year—" and inserting "Not more than $1,200,000 of each annual appropriation made in accordance with the provisions of section 3 shall be distributed to the Secretary of the Interior for use as follows:"; and

(B) in paragraph (1)(D) by striking "; and" and inserting a period.

(g) REPEAL.—The Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.) is amended—

(1) by striking section 15; and

(2) by redesignating section 16 as section 15.

SEC. 10002. RECREATIONAL BOATING SAFETY.

Section 13107 of title 46, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(1) Subject to paragraph (2) and subsection (c)," and inserting "Subject to subsection (c),";

(B) by striking "the sum of (A) the amount made available from the Boat Safety Account for that fiscal year under section 15 of the Dingell-Johnson Sport Fish Restoration Act and (B)"; and

(C) by striking paragraph (2); and

(2) in subsection (c)—

(A) by striking the subsection designation and paragraph (1) and inserting the following:

"(c)(1)(A) The Secretary may use amounts made available each fiscal year under section 4(b)(2) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(b)(2)) for payment of expenses of the Coast Guard for investigations, personnel, and activities directly related to—

"(i) administering State recreational boating safety programs under this chapter; or

"(ii) coordinating or carrying out the national recreational boating safety program under this title.

"(B) Of the amounts used by the Secretary each fiscal year under subparagraph (A)—

"(i) not less than $2,000,000 is available to ensure compliance with chapter 43 of this title; and

"(ii) not more than $1,500,000 is available to conduct a survey of levels of recreational boating participation and related matters in the United States."; and

(B) in paragraph (2)—

(i) by striking "No funds" and inserting "On and after October 1, 2016, no funds"; and

(ii) by striking "traditionally".

PURPOSE OF LEGISLATION

H.R. 3763, the Surface Transportation Reauthorization and Reform Act of 2015 (STRR Act), as amended, authorizes federal surface transportation programs through fiscal year (FY) 2021. The bill makes reforms to laws governing highway project funding and construction, transit, highway safety, the operations of motor carriers, transportation research, and hazardous materials transportation.

BACKGROUND AND NEED FOR LEGISLATION

The Moving Ahead for Progress in the 21st Century Act (MAP–21) (P.L. 112–141) was enacted in July 2012 and reauthorized federal surface transportation programs through September 30, 2014. Since that time, four extensions have been enacted to continue program authorizations. The latest extension, the Surface Transportation Extension Act of 2015, will expire on November 20, 2015. The STRR Act provides the long-term stability that is needed in order for states to plan major transportation projects.

IMPROVING OUR INFRASTRUCTURE

The surface transportation system represents our most immediate and accessible link to our Nation's vast transportation network. Our surface transportation infrastructure supports our national security, ensures our global competitiveness, and facilitates economic growth. As we invest in new transportation projects, we must also continue to invest in existing structures so we can remain competitive in the global marketplace.

During the last two centuries, improvements in our surface transportation system helped build the United States into a great nation. Our surface transportation infrastructure became second to none. Today, reports of deteriorating bridges, crumbling highways, and breakdowns on transit systems serve as reminders that when this infrastructure is taken for granted, it increases risks to the

system's safety and our economy. The United States now ranks 16th in the world in terms of infrastructure quality, and 15th in percentage of Gross Domestic Product devoted to infrastructure investment.

The STRR Act improves our surface transportation infrastructure by making necessary reforms to programs, refocusing on our national priorities, and focusing on innovation.

REFORM

Building transportation projects requires state and local governments to meet complex legal, technical, and analytical requirements. Currently, it can take up to 14 years for a transportation project to be completed using federal funds. Time is money, and any unnecessary barrier or delay during the process can have a significant impact on the number and quality of improvements, particularly when funding for our Nation's infrastructure is limited.

The STRR Act reforms surface transportation programs to accelerate project delivery, promote innovative financing, and provide greater flexibility to states and local governments to better address their priorities and needs.

REFOCUSING ON OUR NATIONAL PRIORITIES

One of the fundamental responsibilities of government is promoting interstate commerce. This duty is critical to the economy. A strong national surface transportation system enhances the flow of commerce from coast to coast, as well as beyond our borders. It also increases the ability of American businesses to prosper, create jobs, and compete in a global marketplace.

The STRR Act refocuses federal transportation programs on national priorities. The bill redirects existing funds into a new program, the Nationally Significant Freight and Highway Projects program, to focus on large-scale projects of national or regional importance. This new program ensures that the best projects are awarded funding by establishing a competitive grant process with congressional oversight. Further, this program provides dedicated funding for freight projects for the first time.

INNOVATION

Technology plays an important and growing role in our Nation's transportation systems. Our Nation's surface transportation system must be capable of benefiting from innovation and new transportation technologies.

Innovation is increasingly important to how we live our lives, how we get from place to place, and how we build our infrastructure. Taking advantage of existing and future transportation technologies is another means of judiciously utilizing limited funding. Connected vehicles, smart infrastructure, and autonomous vehicles are a few examples of the future of transportation. We cannot afford to stifle or overregulate innovations that can make our surface transportation system safer and more efficient. For example, 93 percent of highway crashes are attributable to driver control error. If advances in technology can reduce instances of driver error, we can also reduce the approximately 32,000 traffic fatalities each year.

The STRR Act promotes private investment in our surface transportation system. By collaborating with the private sector, each taxpayer dollar is stretched further for a better and more effective investment. Accelerating the introduction of new transportation technologies and promoting the deployment of such technologies will improve safety for drivers and pedestrians. The bill also focuses on updating federal research and transportation standards development to reflect the growth of technology used in transportation.

FEDERAL HIGHWAY PROGRAM

The Federal-Aid Highway Program is a federally-funded, state administered program. While the Federal Highway Administration (FHWA) oversees the program, the states determine how, where, and on what projects to use their federal highway funding. The STRR Act reauthorizes the program through FY 2021 and includes several reforms to maximize funding for national priorities, improve project delivery, increase flexibility for state and local governments, and improve transparency.

Maximizes funding for national priorities

The bill refocuses existing funding to create a Nationally Significant Freight and Highway Projects program funded at $4.5 billion for fiscal years 2016 through 2021 for large-scale projects of national or regional importance. It also expands funding available to address deficient bridges off the National Highway System (NHS).

Improves project delivery

The bill accelerates the environmental review and permitting process by promoting increased and early coordination among federal, state, and local agencies, consolidating the approval process, and establishing a pilot program to allow up to five states to apply state laws and regulations if they are substantially equivalent to National Environmental Policy Act (NEPA).

Increases flexibility

The bill converts the Surface Transportation Program (STP) to a block grant program, the Surface Transportation Block Grant Program (STBGP), maximizing flexibility for states and local governments. It also rolls the Transportation Alternatives Program into STBGP and increases the amount that certain local governments can flex out of the program to spend on other highway priorities. It increases the amount of STBGP funding that is distributed to local governments from 50 percent to 55 percent over the life of the bill. Finally, it removes a requirement for states to collect superfluous data on unpaved and gravel roads.

Improves transparency

The bill requires FHWA to provide project-level information to Congress and the public.

FEDERAL TRANSIT PROGRAMS

Public transportation enhances mobility for many individuals, whether they come from a rural or urban setting. The STRR Act reauthorizes federal transit programs through FY 2021 and in-

cludes provisions to reform Federal Transit Administration (FTA) programs, increase flexibility, expand mobility, improve safety, and promote accountability.

Increases flexibility

The bill improves flexibility for local transit authorities by reducing federal mandates on transit enhancement activities and cost shares for bicycle related projects. It also allows transit authorities to use federal funds to meet their state of good repair needs. Finally, the bill includes provisions to make capital purchases more cost effective.

Expands mobility

The bill provides for the coordination of public transportation services with other federally assisted local transportation services to aid in the mobility of seniors and individuals with disabilities. It also allows states to partner with intercity bus providers to support greater rural mobility.

Improves safety

The bill strengthens safety by requiring the Secretary of Transportation (Secretary) to review existing minimum safety standards in public transportation, determine where gaps or conflicts between regulations exist, and work with the public and stakeholders to address them. The Secretary is authorized to withhold funds from the Public Transportation Safety Program when recipients are determined to be non-compliant with minimum safety standards.

Promotes accountability

The bill consolidates research programs conducted by FTA to increase government accountability and transparency. Annual reports on research must be accessible to the public. To improve the transparency and accountability of transit grants, transit authorities are required to include project elements in the project's cost-effectiveness calculation.

HIGHWAY SAFETY

In 2013, 32,719 fatalities occurred on our Nation's highways, according to the National Highway Traffic Safety Administration (NHTSA). More can be done to reduce the number of accidents and improve safety. The STRR Act reauthorizes highway safety programs through FY 2021 and makes several reforms to existing law to help keep drivers, pedestrians, and our roads safe.

Prioritizes emerging safety needs

The bill enables states to spend more funds on the pressing safety needs unique to their state by increasing the percentage of National Priority Safety Program funds that can be flexed to each state's traditional safety program. The bill also requires the Secretary to study the feasibility of establishing an impairment standard for drivers under the influence of marijuana and provide recommendations on how to implement such a standard.

Improves safety

The bill reforms the Impaired Driving Countermeasures, Distracted Driving, and State Graduated Driver License Incentive programs to reduce barriers to state eligibility and improve incentives for states to adopt laws and regulations to improve highway safety. The bill encourages states to adopt programs to increase driver awareness of commercial motor vehicles. Finally, the bill encourages states to adopt safety awareness programs for pedestrians and bicyclists.

MOTOR CARRIERS

The operations of trucks and intercity buses are critical to our economy. In 2012, 70 percent of all freight in the United States—over 13 billion tons valued at more than $12 trillion—was moved by truck. In the same year, the motor coach industry provided approximately 637 million trips to passengers, transporting them a total of 75.7 billion miles. To continue to grow the economy, it is important to ensure these industries can continue to safely move freight and passengers in interstate commerce. The STRR Act reauthorizes the programs of the Federal Motor Carrier Safety Administration (FMCSA) through FY 2021 and includes several reforms to improve truck and bus safety.

Improves safety

The bill incentivizes the adoption of innovative truck and bus safety technologies and accelerates the implementation of safety regulations required by law. The bill also authorizes new testing methods to detect the use of drugs and alcohol by commercial motor vehicle drivers.

Reduces regulatory burdens

The bill reforms the regulatory process by requiring FMCSA to review regulations every five years to ensure they are current, consistent, and uniformly enforced. The bill also consolidates nine existing FMCSA grant programs into four and streamlines program requirements to reduce administrative costs and regulatory burdens on states.

Provides opportunities for veterans

The bill awards grant priority to programs that train veterans for careers in the trucking industry and reduces regulatory barriers faced by veterans seeking employment as commercial truck and bus drivers.

HAZARDOUS MATERIALS TRANSPORTATION

The Pipelines and Hazardous Materials Safety Administration (PHMSA) oversees the safe and secure shipment of nearly 1.4 million daily movements of hazardous materials, including everyday products, such as paints, fuels, fertilizers, alcohol, chlorine, fireworks, and batteries that are essential items to the general public and local economies due to their use in the American economy. In total, almost 4 billion tons of hazardous materials are moved safely throughout the Nation each year. However, this does not mean we cannot improve on an already safe industry. The bill strengthens

and advances the safe and efficient movement of hazardous materials through a number of reforms and safety improvements.

Enhances emergency preparedness and response

The bill reforms an underutilized grant program to get more money to states and Indian tribes for emergency response, while also granting states more power to decide how to spend their training and planning funds. It helps better leverage training funding for hazardous materials employees and those enforcing hazardous materials regulations. Additionally, it will require all Class I Railroads to provide information to State Emergency Response Commissions (SERCs) regarding the movement of certain flammable materials.

Strengthens and improves crude-by-rail

The bill enhances safety by requiring new tank cars to be equipped with "thermal blankets", requiring each railroad carrier transporting certain flammable liquids to maintain a comprehensive oil spill response plan and provide certain information about flammable liquid shipments to SERCs, and initiates real-world testing and a data-driven approach to investigate braking technology requirements for crude movements. Finally, it ensures all DOT–111 and CPC–1232 tank cars in flammable liquids service are upgraded to new retrofit standards regardless of the product being transported.

Streamlines processes and creates certainty and transparency for industry

The bill extends the deadline for positive train control technology to ensure a safe and efficient implementation for America's rail passengers, commuters, and freight railroads. Additionally, it speeds up the administrative process and reduces red tape to create certainty for the hazardous materials industry with special permits and approvals. The bill requires a full review of third-party classification labs to ensure the labs can perform such examinations in a manner that meets the hazardous materials regulations. Furthermore, it allows PHMSA to respond more nimbly during national emergencies. Finally, it requires PHMSA to withdraw a rulemaking on "wetlines" consistent with a Government Accountability Office (GAO) study recommending that PHMSA collect more data.

HEARINGS

On February 11, 2015, the Committee on Transportation and Infrastructure held a hearing to receive testimony from the Secretary of Transportation regarding the Administration's perspective on a reauthorization of federal surface transportation programs. On March 17, 2015, the Committee held a hearing to gather input from representatives of state and local governments concerning a reauthorization of federal surface transportation programs. On April 14, 2015, the Subcommittee on Railroads, Pipelines, and Hazardous Materials held a hearing to examine ongoing rail, pipeline, and hazardous materials rulemakings. On April 29, 2015, the Subcommittee on Highways and Transit held a hearing to examine the safety of commercial motor vehicles. On June 24, 2015, the Subcommittee on Highways and Transit held a hearing to examine

rural transportation needs. On June 24, 2015, the Subcommittee on Railroads, Pipelines, and Hazardous Materials held a hearing on the state of positive train control implementation in the United States.

LEGISLATIVE HISTORY AND CONSIDERATION

On October 20, 2015, Committee on Transportation and Infrastructure Committee Chairman Bill Shuster and Ranking Member Peter DeFazio, and Subcommittee on Highways and Transit Chairman Sam Graves and Ranking Member Eleanor Holmes Norton introduced H.R. 3763, the Surface Transportation Reauthorization and Reform Act of 2015. On October 22, 2015, the Committee met in open session to consider H.R. 3763, and ordered the bill, as amended, reported favorably to the House of Representatives by voice vote with a quorum present.

During consideration of the bill, the Committee dispensed with amendments as follows:

The following amendments were approved by voice vote:

A Manager's amendment offered by Chairman Shuster designated 045;

Amendments considered en bloc and consisting of an amendment by Representative LoBiondo designated 013, and amendment by Representative Davis designated 030, an amendment by Representative Hanna designated 019, an amendment by Representative Hunter designated 044, and an amendment by Representative Gibbs designated 009; and An amendment offered by Representative Ribble designated 022.

The following amendments were approved by unanimous consent:

An amendment offered by Representative Perry designated 042;

An amendment offered by Representative Carson designated 866;

An amendment offered by Representative Titus designated 040;

An amendment offered by Representative Lipinski designated 085; and

An amendment offered by Representative Babin designated 055.

The following amendment was ruled out of order:

An amendment offered by Representative Garamendi designated 069.

The following amendments were defeated by recorded vote:

An amendment offered by Representative Garamendi designated 070; and

An amendment offered by Representative Rokita designated 029.

The following amendments were withdrawn:

An amendment offered by Representative Young designated 090;

An amendment offered by Representative Capuano designated 029;

An amendment offered by Representative Duncan designated 024;

Amendments offered by Representative Napolitano considered en bloc and consisting of an amendment designated 011, an amendment designated 013, and an amendment designated 015;

An amendment offered by Representative Hunter designated 045;
An amendment offered by Representative Cohen designated 075;
An amendment offered by Representative Crawford designated 039;
An amendment offered by Representative Edwards designated 037;
An amendment offered by Representative Barletta designated 040;
An amendment offered by Representative Farenthold designated 038;
An amendment offered by Representative Hahn designated 051;
An amendment offered by Representative Gibbs designated 013;
An amendment offered by Representative Nolan designated 043;
Amendments offered by Representative Kirkpatrick considered en bloc and consisting of an amendment designated 023 and an amendment designated 024;
An amendment offered by Representative Ribble designated 020;
An amendment offered by Representative Rice designated 028;
An amendment offered by Representative Maloney designated 025;
An amendment offered by Representative Perry designated 036;
Amendments offered by Representative Frankel considered en bloc and consisting of an amendment designated 022, an amendment designated 023, and an amendment designated 024;
Amendments offered by Representative Davis considered en bloc and consisting of an amendment designated 026, an amendment designated 028, and an amendment designated 033;
An amendment offered by Representative Brownley designated 032;
An amendment offered by Representative Babin designated 054;
An amendment offered by Representative Hardy designated 020;
An amendment offered by Representative Costello designated 013;
An amendment offered by Representative Larsen designated 031;
An amendment offered by Representative Duncan designated 025;
An amendment offered by Representative Lipinski designated 065;
An amendment offered by Representative Barletta designated 041;
An amendment offered by Representative Edwards designated 038;
An amendment offered by Representative Farenthold designated 039;
An amendment offered by Representative Gibbs designated 011;
An amendment offered by Representative Nolan designated 044;
An amendment offered by Representative Kirkpatrick designated 026;
An amendment offered by Representative Maloney designated 026;
An amendment offered by Representative Rokita designated 031;
An amendment offered by Representative Babin designated 057;
Amendments offered by Representative Lipinski considered en bloc and consisting of an amendment designated 046 and an amendment designated 049;

An amendment offered by Representative Edwards designated 041;

An amendment offered by Representative Rokita designated 042;

An amendment offered by Representative Perry designated 038;

An amendment offered by Representative Farenthold designated 040;

An amendment offered by Representative Lipinski designated 052;

An amendment offered by Representative Farenthold designated 041;

An amendment offered by Representative Ribble designated 024;

An amendment offered by Representative Edwards designated 045;

An amendment offered by Representative Garamendi designated 063;

An amendment offered by Representative Perry designated 040;

An amendment offered by Representative Crawford designated 038;

An amendment offered by Representative Barletta designated 043;

An amendment offered by Representative Massie designated 034;

An amendment offered by Representative Napolitano designated 016;

An amendment offered by Representative Denham concerning federal preemption of state laws affecting motor carriers; and

An amendment offered by Representative Mica designated 017.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. During Committee consideration of H.R. 3763, record votes were taken on an amendment offered by Representative Garamendi designated 070, and an amendment offered by Representative Rokita designated 029. The Committee disposed of these amendments by record vote as follows:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVES – 114TH CONGRESS

Number of Members: (34/25) Quorum: 30 Working Quorum: 20
Date: 10/22/2015 Presiding: Chairman Shuster
Amendment or matter voted on: Garamendi Amendment 70 – H.R. 3763
Vote: 42 Nays- 11 Yeas- 1 Present

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Shuster		X		*Mr. DeFazio*		X	
Mr. Young				*Ms. Norton*		X	
Mr. Duncan				*Mr. Nadler*		X	
Mr. Mica		X		*Ms. Brown*		X	
Mr. LoBiondo		X		*Ms. Johnson*		X	
Mr. Graves (MO)		X		*Mr. Cummings*			
Mrs. Miller		X		*Mr. Larsen*		X	
Mr. Hunter		X		*Mr. Capuano*		X	
Mr. Crawford		X		*Mrs. Napolitano*	X		
Mr. Barletta		X		*Mr. Lipinski*		X	
Mr. Farenthold		X		*Mr. Cohen*			X
Mr. Gibbs		X		*Mr. Sires*	X		
Mr. Hanna		X		*Ms. Edwards*		X	
Mr. Webster		X		*Mr. Garamendi*	X		
Mr. Denham		X		*Mr. Carson*		X	
Mr. Ribble		X		*Ms. Hahn*	X		
Mr. Massie		X		*Mr. Nolan*	X		
Mr. Rice		X		*Mrs. Kirkpatrick*		X	
Mr. Meadows		X		*Ms. Titus*	X		
Mr. Perry				*Mr. Maloney*	X		
Mr. Davis		X		*Ms. Esty*		X	
Mr. Sanford		X		*Ms. Frankel*	X		
Mr. Woodall		X		*Mrs. Bustos*	X		
Mr. Rokita				*Mr. Huffman*	X		
Mr. Katko		X		*Ms. Brownley*	X		
Mr. Babin		X					
Mr. Hardy		X					
Mr. Costello		X					
Mr. Graves (LA)		X					
Mrs. Walters		X					
Mrs. Comstock		X					
Mr. Curbelo		X					
Mr. Rouzer		X					
Mr. Zeldin		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVES – 114TH CONGRESS

Number of Members: (34/25) Quorum: 30 Working Quorum: 20
Date: 10/22/2015 Presiding: Chairman Shuster
Amendment or matter voted on: Rokita Amendment 29 – H.R. 3763
Vote: 40 Nay-11 Yeas

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Shuster		X		*Mr. DeFazio*		X	
Mr. Young				*Ms. Norton*		X	
Mr. Duncan		X		*Mr. Nadler*		X	
Mr. Mica				*Ms. Brown*		X	
Mr. LoBiondo	X			*Ms. Johnson*			
Mr. Graves (MO)		X		*Mr. Cummings*			
Mrs. Miller	X			*Mr. Larsen*		X	
Mr. Hunter	X			*Mr. Capuano*			
Mr. Crawford		X		*Mrs. Napolitano*		X	
Mr. Barletta		X		*Mr. Lipinski*		X	
Mr. Farenthold				*Mr. Cohen*	X		
Mr. Gibbs		X		*Mr. Sires*		X	
Mr. Hanna		X		*Ms. Edwards*		X	
Mr. Webster		X		*Mr. Garamendi*		X	
Mr. Denham	X			*Mr. Carson*	X		
Mr. Ribble		X		*Ms. Hahn*		X	
Mr. Massie		X		*Mr. Nolan*		X	
Mr. Rice	X			*Mrs. Kirkpatrick*		X	
Mr. Meadows				*Ms. Titus*		X	
Mr. Perry		X		*Mr. Maloney*		X	
Mr. Davis	X			*Ms. Esty*		X	
Mr. Sanford	X			*Ms. Frankel*		X	
Mr. Woodall				*Mrs. Bustos*		X	
Mr. Rokita	X			*Mr. Huffman*		X	
Mr. Katko		X		*Ms. Brownley*		X	
Mr. Babin	X						
Mr. Hardy		X					
Mr. Costello		X					
Mr. Graves (LA)		X					
Mrs. Walters		X					
Mrs. Comstock		X					
Mr. Curbelo		X					
Mr. Rouzer		X					
Mr. Zeldin		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

With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee reports that at this time it is not in the position to make a cost estimate for H.R. 3763, as amended, as the Congressional Budget Office has not timely submitted an estimate and comparison under section 402 of the Congressional Budget Act of 1974 to the Committee before the filing of the report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee reports that at this time it is not in the position to make a cost estimate for H.R. 3763, as amended, as the Congressional Budget Office has not timely submitted an estimate to the Committee before the filing of the report.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to improve our Nation's infrastructure, reform federal surface transportation programs, refocus those programs on addressing national priorities, and encourage innovation to make the surface transportation system safer and more efficient.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the H.R. 3763, as amended, includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 3763, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee estimates that enacting H.R. 3763 specifically directs the completion of specific rule makings within the meaning of section 551 of title 5, United States Code. Section 1313 of the bill requires the Secretary of Transportation to carry out a rulemaking to implement section 330 of title 23, United States Code. Section 1315 requires the Secretary to carry out a rulemaking to implement a provision that expedites environmental reviews and permitting. Section 3022 requires the Secretary to carry out a rulemaking on transit operator safety. Section 5106 requires the Secretary to carry out a rulemaking to establish a new allocation formula for Motor Carrier Safety Assistance Grants. Section 5202 requires the Secretary to carry out rulemakings to update motor carrier regulations that are no longer consistent, clear, and uniformly enforced. Section 5203 requires the Secretary to carry out rulemakings to update regulations to incorporate guidance issued by FMCSA. Section 5302 requires the Secretary to modify regulations concerning the mounting of safety equipment on the windshield of a commercial motor vehicle. Section 5401 requires the Secretary to modify regulations concerning commercial driver's licenses for veterans. Section 5502 requires the Secretary, by regulation, to establish a process to collect data on delays experienced by commercial motor vehicle operators. Section 7007 requires a rulemaking with regard to those entities that conduct third-party classification examinations, if regulatory changes are recommended by a GAO study of the matter. Section 7010 requires the Secretary to carry out a rulemaking to require each tank car built to meet DOT–117 or DOT–117R specifications include a thermal blanket. Section 7011 requires the Secretary to issue regulations to require railroad carriers to create oil spill response plans. Finally, section 7012 requires the Secretary to issue regulations to require railroad carriers to provide certain information on the transportation of high-hazard flammable materials to SERCs.

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 3763, as amended, includes provisions that would preempt state, local, or tribal law. Section 5513 prohibits states from enacting laws that impose a limitation of less than 80 feet on the length of a stinger steered automobile transporter operating on the NHS and certain other roads. Generally, state, local, and tribal requirements regarding transportation of hazardous materials are preempted if complying with those requirements and federal hazardous materials rules and regulations is not possible; the requirements are an obstacle to complying with other federal regulations; or where there are substantive differences in certain prescribed areas. However, state and local governments and Indian tribes are authorized to apply for waivers of preemption. Section 7010 requires that tank cars built to the DOT–117 specification include thermal blankets. Section 7011 requires railroad carriers to develop

oil spill response plans for the transportation of class 3 flammable liquids, and DOT's preemption would apply under section 5125 of title 49, United States Code. However, such preemption decisions can be made on a case-by-case basis through a waiver request or upon determination by the Secretary. Section 7012 requires that railroad carriers notify SERCs of the certain information on high-hazard flammable trains. Section 7015 requires that all tank cars carrying Class 3 flammable liquids be required to meet the DOT–117 or DOT–117R tank car specifications.

ADVISORY COMMITTEE STATEMENT

Section 1429 of H.R. 3763, as amended, establishes an advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act (FACA) (5 U.S.C. app.). Sections 5106, 5504, and 5505 of this legislation establish temporary working groups that meet the definition of an advisory committee under section 3 of the Federal Advisory Committee Act. Pursuant to section 5 of the Federal Advisory Committee Act, the Committee determines that the functions of the advisory committee and the working groups are not being carried out by existing agencies or advisory commissions. The Committee also determines that the advisory committee and the working groups have a clearly defined purpose, fairly balanced membership, and meet all of the other requirements of section 5(b) of the Federal Advisory Committee Act.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that H.R. 3763, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A —Authorizations and Programs

Section 1101. Authorization of appropriations

This section authorizes funds for the Federal-Aid Highway Program, Nationally Significant Freight and Highway Projects, Transportation Infrastructure Finance and Innovation Program (TIFIA), Tribal Transportation Program, Federal Lands Transportation Program, Federal Lands Access Program, Territorial and Puerto Rico Highway Program, and the Disadvantaged Business Enterprise Program through fiscal year 2021 at levels consistent with the Congressional Budget Office's (CBO) baseline projections for the Highway Trust Fund.

Section 1102. Obligation ceiling

This section provides the obligation limitations for the federal-aid highway and highway safety construction programs. The section retains MAP–21 provisions governing the distribution of obligation authority and the redistribution of unused obligation authority.

Section 1103. Definitions

This section makes conforming changes to definitions applicable under title 23, United States Code.

Section 1104. Apportionment

This section allocates apportioned funds among the National Highway Performance Program (NHPP), Surface Transportation Block Grant Program (STBGP), Highway Safety Improvement Program (HSIP), the Congestion Mitigation and Air Quality Improvement Program (CMAQ), and Metropolitan Planning. The section generally retains MAP–21's apportionment formulas, but adds to each state's base apportionment supplemental funds for NHPP and STBGP. The section also provides for the apportionment of funds among the states, retaining provisions that ensure that each state's combined apportionments are not less than 95 percent of the state's estimated tax payments into the Highway Trust Fund (other than the Mass Transit Account). Finally, this section authorizes appropriations out of the Highway Trust Fund (other than the Mass Transit Account) for administrative expenses for the FHWA.

Section 1105. National Highway Performance Program

This section allows states to use NHPP funds to pay the subsidy and administrative costs associated with providing TIFIA credit assistance. The section also allows NHPP funds to be used for bridge projects located off the NHS, but on a Federal-aid highway.

Section 1106. Surface Transportation Block Grant Program

This section converts the Surface Transportation Program to a block grant program, the Surface Transportation Block Grant Program (STBGP), providing states significant flexibility in how these funds may be obligated. The section also phases in an increase in the percentage of STBGP funds suballocated based on population from 50 percent to 55 percent between fiscal years 2016 and 2020. This section also folds the Transportation Alternatives Program (TAP) into the STBGP program, holds TAP funding flat at $819.9 million for fiscal years 2016 through 2021, and suballocates 50 percent of TAP funding based on population and 50 percent to any area of the state. Finally, this section allows 50 percent of TAP funds suballocated to areas with a population greater than 200,000 to be used for any project eligible for funding under STBGP.

Section 1107. Railway-highway grade crossings.

This section increases the set-aside from the HSIP for railway-highway grade crossings to address fatalities and hazards at public grade crossings.

Section 1108. Highway Safety Improvement Program

This section reestablishes a focus on using federal funds for roadway safety infrastructure. It also adds eligible activities which include: installation of vehicle-to-infrastructure equipment, pedestrian hybrid beacons, and roadway improvements that provide separation between pedestrians and motor vehicles. This section removes a requirement which required states to collect data on all public roads including unpaved and gravel roads. This section modifies a special rule for high risk rural roads by stating that if

a state is above the two-year median fatality rate for rural roads among all states, then a state is required to identify strategies to address fatality reductions and achieve safety improvements on high risk rural roads in their State Strategic Highway Safety Plan. Lastly, it includes a provision which surveys states to determine best practices in preventing roadway crashes that involve commercial motor vehicles.

Section 1109. Congestion Mitigation and Air Quality Improvement Program

This section adds the installation of vehicle-to-infrastructure equipment to the list of eligible activities. Also, this section gives certain states the flexibility to undertake CMAQ or STBGP-eligible projects with CMAQ funds in order to help prevent areas within the state from going into nonattainment. In addition, it clarifies states shall give priority to projects that are proven to reduce direct emissions of PM2.5.

Section 1110. National Highway Freight policy

This section modifies the National Highway Freight Network (Network) to consist of: (1) the Interstate System; (2) non-Interstate highway segments on the comprehensive 41,000-mile network developed by the USDOT; and (3) up to an additional 10 percent of highway mileage in each state as designated by the state. The Network will be updated every five years to take into account gaps in the Network, needed connections to other modes of transportation, and critical emerging freight corridors and critical emerging commerce corridors.

The Committee is aware that the USDOT is considering enlarging the 41,000-mile network to approximately 65,000 miles of interconnected highways as part of its initiative to develop a multimodal freight network. However, the larger network is still under internal review and a finalized network has not been released to the public.

Section 1111. Nationally significant freight and highway projects

This section establishes a competitive grant program to fund nationally significant: (1) freight projects on the Network; (2) highway and bridge projects on the NHS; (3) freight rail or freight intermodal projects carried out on the National Multimodal Freight Network; and (4) railway-highway grade crossing or grade separation projects. For a project in a single state, projects will be required to have a project cost equal to or exceeding the lesser of $100 million or 30 percent of a state's apportioned funds for the most recent fiscal year. Multi-state projects will be required to have a project cost equal to or exceeding the lesser of $100 million or 50 percent of the apportioned funds of the participating state with the largest apportionment in the most recent fiscal year. Not more than $500 million from fiscal year 2016 through 2021 may be used for freight rail or freight intermodal projects and the projects need to demonstrate a significant improvement to freight movements on the NHS and the federal share of the projects may only fund elements of the projects that provide public benefits. This limitation will not apply to a grade crossing or grade separation project and for a multimodal project, will only apply to the non-highway portion of the project.

Not less than 10 percent of the funds made available are reserved to make grants of $5,000,000 or more for smaller highway freight projects. Not less than 20 percent of the funds made available (including funds for smaller highway freight projects) are reserved for projects in rural areas. The maximum federal share under the program is 50 percent of project costs. States may use their apportioned funds to meet the non-federal contribution, but total federal funds may not exceed 80 percent of project costs. The Secretary may allow grants to be used to fund the subsidy and administrative costs of TIFIA credit assistance. Finally, the section gives Congress 60 days to disapprove of a proposed grant by enacting a joint resolution.

The new program will provide funding for large-scale freight highway projects that are difficult for states to fund from their annual apportionments as well as smaller highway freight projects. The Committee intends for a wide-range of freight projects to be eligible, including the elimination of bottlenecks, intermodal connections, and truck-only lanes.

Section 1112. Territorial and Puerto Rico Highway Program

This section increases the annual authorization for the Puerto Rico Highway Program and for the Territorial Highway Program.

Section 1113. Federal Lands and Tribal Transportation Program

This section requires tribes to submit to the Secretary and the Secretary of the Interior data on project names, descriptions, current status, and estimated number of jobs created under the tribal transportation program.

Section 1114. Tribal Transportation Program

This section reduces the funding for FHWA program management and project-related administrative expenses from six percent to five percent.

Section 1115. Federal Lands Transportation Program

This section adds the Bureau of Reclamation and independent federal agencies with natural resource and land management responsibilities as recipients of funding from the Federal Lands Transportation Program.

MAP–21 eliminated the Transit in the Parks program, removing a dedicated stream of funding for public transportation in parks. The Committee encourages the National Park Service to pay particular attention to the impact of vehicle congestion on local roads near national parks, and to utilize all available strategies to manage and mitigate congestion in such parks.

Section 1116. Tribal Transportation Self-Governance Program

This section establishes a Tribal Transportation Self-Governance Program at the USDOT. The Secretary determines eligibility after reviewing a tribe's financial stability, financial management capacity, and transportation program management capability from the three preceding fiscal years. If eligible, the Secretary and the tribe are required to negotiate and enter into a written compact, which would outline the terms of the relationship between the tribe and USDOT. The Secretary is required to negotiate and enter into a

written annual funding agreement with a tribe after entering into a compact. The annual funding agreement would allow a tribe to receive and administer full formula funding and any competitive grants from the USDOT programs that are available to tribes.

Section 1117. Emergency relief

This section allows debris removal on federal lands to be eligible under the Emergency Relief Program.

Section 1118. Highway use tax evasion projects

This section continues a program to combat highway use tax evasion and requires the Internal Revenue Service to submit its annual report on its efforts to prevent tax evasion to the House Transportation and Infrastructure Committee and the Senate Environment and Public Works Committee.

Section 1119. Bundling of bridge projects

This section allows a state to bundle two or more similar bridge projects to save time and reduce costs if the bridge projects are eligible under NHPP or STBGP, are included as a bundled project in a metropolitan or statewide transportation improvement plan (TIP), and are awarded to a single contractor or consultant.

Section 1120. Tribal High Priority Projects Program

This section reauthorizes the Tribal High Priority Projects Program.

Section 1121. Construction of ferry boats and ferry terminal facilities

This section reauthorizes the program for the construction of ferry boats and ferry terminal facilities.

Subtitle B—Planning and Performance Management

Section 1201. Metropolitan transportation planning

This section adds "intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities" to the types of transportation systems and facilities to be addressed in the plans and TIPs developed by metropolitan planning organizations (MPOs). The section also clarifies that a representative of a provider of public transportation may also serve as a representative of a local municipality and will have the same responsibilities, voting rights and other authorities as other officials serving on the MPO. The section adds tourism and natural disaster risk reduction to the types of planning activities affected by transportation that MPOs are encouraged to coordinate with other officials during the planning process. The section also adds improving the resilience and reliability of the transportation system to the list of projects and strategies to be considered in the planning process. The section adds public ports, intercity bus operators, and transit-related groups to the list of interested parties to be provided an opportunity to comment on the transportation plan. An MPO serving a transportation management area may develop a congestion management plan that includes projects and strategies that will be considered in the TIP.

Section 1202. Statewide and nonmetropolitan transportation planning

The section makes conforming and technical corrections to the statewide and nonmetropolitan planning process under section 135 of title 23, United States Code, and makes many of the changes made to metropolitan planning under section 1201 to statewide planning.

Subtitle C—Acceleration of Project Delivery

Section 1301. Satisfaction of requirements for certain historic sites

This section aligns, to the maximum extent practicable, Section 4(f) of the 1966 Department of Transportation Act and Section 106 of the National Historic Preservation Act processes to achieve efficiency in reviews for historic sites while continuing to provide important protection for cultural resources, including mitigating potential impacts.

Section 1302. Treatment of improvements to rail and transit under preservation requirements

This section provides that improvements to, or the maintenance, rehabilitation, or operation of railroad or rail transit lines that are in use or were historically used for the transportation of passengers or cargo will not be considered a use of a historic site under Section 4(f), with the exception of stations, and bridges and tunnels located on railroad lines that have been abandoned or transit lines that are not in use.

Section 1303. Clarification of transportation environmental authorities

This section supports the wide-spread practice of referring to two provisions of transportation law (49 USC 303 and 23 USC 138) by a reference to Section 4(f) of the 1966 Department of Transportation Act, which was repealed long ago. The section amends sections 303 and 138 to include a reference to clarify that these sections may also be referred to as Section 4(f) within the transportation law community.

Section 1304. Treatment of certain bridges under preservation requirements

This section exempts a category of ordinary concrete and steel bridges constructed after 1945 from Section 4(f) review.

In 2012, the Advisory Council on Historic Preservation (ACHP) issued a Program Comment with respect to certain common bridges and culverts constructed of steel or concrete after 1945 to relieve all federal agencies from the requirement to undertake a case-by-case review of the effects of projects under Section 106 of the National Historic Preservation Act. FHWA estimates that the action could exempt almost 200,000 bridges and culverts from individual reviews and save taxpayers $78 million over the next 10 years.

Section 1305. Efficient environmental reviews for project decision-making

This section makes a number of changes to accelerate the environmental review and permitting process. Specifically, this section

modifies the definition of "multimodal project" to include all USDOT modes; clarifies that either the USDOT or a USDOT modal administration may be the lead agency for purposes of NEPA review; and requires the lead agency to invite other federal and non-federal agencies to participate in the NEPA process within 45 days after the publication of a Notice of Intent to prepare an Environmental Impact Statement (EIS) or the initiation of an Environmental Assessment (EA).

This section also requires, to the maximum extent practicable, and consistent with current law, the development of a single NEPA document that will be sufficient for any federal approval or other federal action required for the project by any federal agency. Further, it requires that participating agencies limit their comments with respect to the range of alternatives to subject matter areas within the agency's area of expertise or jurisdiction, and give substantial deference to the range of alternatives recommended by the lead agency and requires a participating agency that declines to participate in the development of the purpose and need and range of alternatives to still comply with the schedule for completing environmental review required under subsection 139(g). It also requires the lead agency to develop a project checklist to help sponsors identify potential natural, cultural, and historic resources in the area of the project.

Additionally, this section requires the lead agency to establish the plan for coordinating public and agency participation in the environmental review process within 90 days after the publication of a notice to prepare an EIS or the initiation of an EA; makes the development of a schedule for the completion of the environmental process mandatory; modifies the process for elevating outstanding issues by making the Council on Environmental Quality (CEQ), rather than the President, the highest level of referral; and expands, to all public entities receiving federal assistance from USDOT, the authority to use federal dollars to fund positions at federal, state or local agencies that participate in the environmental review process. Funds may be used to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval and consultation processes.

Section 1306. Improving transparency in environmental reviews

This section requires the Secretary to maintain an online platform to report project level status of the reviews, approvals, and permits required for compliance with NEPA, or any other federal, state, or local approval required for the project, including information on projects for which the NEPA process has been delegated to a state.

Section 1307. Integration of planning and environmental review

The section further coordinates the environmental review process by strengthening the linkages between transportation planning and environmental review. This section changes the definition of "environmental review process "to refer both to NEPA and other required permits and approvals by other federal agencies. The modification is consistent with the intent of the MAP–21, which allows

planning products to be incorporated in environmental reviews by other Federal agencies.

The section eliminates the requirement that a planning product must be approved by the state, all local and tribal governments, and any relevant MPO. This section also modifies, but maintains, the requirement that any planning product intended to be later incorporated into the environmental review process must first be noticed to the public, made publicly available for comment by federal, state, local, and tribal governments, and the general public for such purposes, and any comments received on such product must be considered by the lead agency. A planning product may be incorporated into the environmental review process to the extent that it is appropriate for adoption and use, and is sufficient to meet the requirements of federal law, including NEPA.

As the USDOT noted in its Notice of Proposed Rulemaking to implement this section of MAP–21, the approval requirement is a departure from current practice since approval is typically reserved for the overall plan and not required for the underlying analyses and studies that support the plan. MAP–21 did not intend to make the former regulatory process more difficult or cumbersome, and the proposed change will help ensure that planning products can be more easily adopted.

The section also makes explicit that planning products that may be adopted for environmental reviews include the project's purpose and need, and the preliminary screening of alternatives and elimination of unreasonable alternatives. The modifications explicitly references programmatic mitigation plans, the development of which was encouraged by MAP–21.

Section 1308. Development of programmatic mitigation plans

This section requires federal agencies to give substantial weight to programmatic mitigation plans developed by states and MPOs to address the potential environmental impacts of future transportation projects.

MAP–21 encouraged states and MPOs to develop programmatic mitigation plans because such plans may be able to accelerate the environmental review process through early identification of potential environmental impacts and mitigation opportunities. However, MAP–21 made the use of such plans by federal agencies discretionary rather than mandatory. Without an assurance that the mitigation plans will be considered, states and MPOs may be reluctant to devote the time and resources to develop the plans.

Section 1309. Delegation of authorities

This section directs the Secretary to use existing authority, to the maximum extent practicable, to delegate responsibility to a state for project designs, plans, specifications, estimates, contract awards, and inspections, on both a project-specific and programmatic basis. Within 18 months following enactment, the Secretary, in cooperation with the states, is directed to submit recommendations for legislation needed to permit delegation of additional authorities to the states.

Section 1310. Categorical exclusion for projects of limited federal assistance

This section provides for an inflationary adjustment to the categorical exclusion for projects with limited federal assistance, and applies the adjustment retroactively.

Section 1311. Application of categorical exclusions for multimodal projects

This section expands the applicability of categorical exclusions to all USDOT projects, rather than only those funded under title 23 or chapter 53 of title 49, United States Code. The section eliminates the requirement that a multimodal project be funded under a single grant agreement in order for a lead authority to use the categorical exclusion of another agency. The section also strikes the current requirement that the component of the multimodal project to be covered by the categorical exclusions has independent utility.

Section 1312. Surface transportation project delivery program

This section clarifies that a state with NEPA assignment authority does not require further approval from the Secretary to carry out the responsibilities that have been assumed by the state pursuant to an agreement with the USDOT.

The section also amends current audit requirements to require annual audits for each of the first four years a state has assignment authority, rather than semiannual audits during the first two years and annual audits in the third and fourth year. Additionally, states are to be consulted about the makeup of the audit team.

None of the amendments made by the section are intended to affect the authority of the U.S. Department of Justice related to an approved state's implementation of NEPA that existed prior to the enactment of this Act.

Section 1313. Program for eliminating duplication of environmental reviews

This section establishes a pilot program to permit up to five states to apply state environmental laws and regulations instead of NEPA if USDOT and the Council on Environmental Quality (CEQ) determine that such state laws and regulations are substantially equivalent to NEPA. This section encourages other federal agencies, with authority over a project, to use documents produced by a state under the pilot program. A state participating in the program will be allowed to exercise its authority on behalf of up to 10 local governments. This section also requires the Secretary, in consultation with CEQ, to review state programs approved under this section, and authorizes the extension of this authority for an additional five years, or the termination of the authority.

Section 1314. Assessment of progress on accelerating project delivery

This section requires the GAO to conduct an assessment of the progress made by provisions in this bill, MAP–21 and Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA–LU) in accelerating the environmental review and permitting process; make recommendations for further streamlining without negatively impacting the environment; and submit a report to the House Transportation and Infrastructure

Committee and the Senate Environment and Public Works Committee.

Section 1315. Improving state and federal agency engagement in environmental reviews

This section allows public entities that receive federal funds from USDOT for any project for a public purpose to use federal dollars to fund positions at federal, state or local agencies that participate in the environmental review process. Funds may be used to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval and consultation processes.

Section 1316. Accelerated decisionmaking in environmental reviews

This section amends title 49, United States Code, to require, to the maximum extent practicable, that an EIS and Record of Decision be developed as a single document unless the final EIS makes substantial changes to the proposed action or there is significant new information or circumstances relevant to environmental concerns that bear on the proposed action or impacts of the proposed action. The section also allows an operating administration within USDOT to adopt or incorporate by reference a draft EIS, EA, or final EIS of another operating administration if both operating administrations agree the actions being taken are substantially the same, and such actions are consistent with the requirements of NEPA.

Section 1317. Aligning federal environmental reviews

This section requires USDOT, working with the heads of other federal agencies involved in the reviewing transportation projects, to develop a coordinated and concurrent environmental review and permitting process within one year after the date of enactment. The section also requires the development of a checklist to identify potential natural, cultural, and historic sites that may be affected by a proposed project.

Subtitle D—Miscellaneous

Section 1401. Tolling; HOV facilities; interstate reconstruction and rehabilitation.

This section modifies section 129 of title 23, United States Code, to more clearly carry out the intent of MAP–21, and amends section 166 of title 23, United States Code, to specify that any public authority that allows public transportation vehicles to use HOV facilities must provide equal access for all public transportation vehicles and over-the-road buses. The section also provides that a public authority may designate classes of vehicles that are exempt from tolls on HOV lanes, or charge different toll rates for different classes of vehicles if equal rates are charged for all public transportation vehicles and over-the-road buses. Additionally, the section extends the authority of states to allow low emission and energy-efficient vehicles to use HOV lanes through fiscal year 2021.

The section amends the Interstate System Reconstruction and Rehabilitation Pilot Program to require that a state wishing to participate in the pilot program have approved enabling legislation

necessary for the project to proceed. A state's application will now expire three years after the date on which the application was provisionally approved if the state has not submitted a complete application to USDOT, completed the NEPA process, and executed a toll agreement with the Secretary. The Secretary may extend an approval for an additional year if the state demonstrates progress toward the requirements. States that currently have slots reserved under the pilot program will have one year to meet this section's new requirements. The section also allows the Secretary to approve an application for the Interstate System Construction Toll Pilot Program under certain circumstances.

Section 1402. Prohibition on the use of funds for automated traffic enforcement

This section prohibits the use of Federal-aid highway funds for automated traffic enforcement

Section 1403. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.

This section clarifies that state drunk driving repeat offender laws may include an exception from the requirement to install an ignition interlock device on employer-owned vehicles.

Section 1404. Highway trust fund transparency and accountability

This section modifies the information to be included in the annual report to Congress on the use of Federal-aid highway funds and requires the report to be published semi-annually on the USDOT website. Additionally, the provision reinforces the requirement for the submission of project-level information by directing the Secretary to publish an annual report on its website that provides basic project-level information on all projects administered by the FHWA, and additional information on projects with a construction cost of more than $100 million.

The Committee is disappointed that the FHWA has made little progress since MAP–21's enactment in developing and making publicly available project-level information. The Committee expects the FHWA to implement these transparency provisions expeditiously.

Section 1405. High priority corridors on national highway system

This section modifies highway priority corridors under Section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991.

Section 1406. Flexibility for projects

This section provides that for projects eligible for funding under title 23, United States Code, the Secretary, following a request by a state, may use existing authorities to provide additional flexibility or expedited processing.

Section 1407. Productive and timely expenditure of funds

This section requires the Secretary to develop guidance that encourages the use of programmatic approaches to project delivery, expedited and prudent procurement techniques, and other best practices to facilitate the timely and productive expenditure of funds for projects under title 23, United States Code. The Secretary

is to ensure the guidance is consistently implemented by the states and FHWA.

Section 1408. Consolidation of programs

This section reauthorizes funding for safety-related clearinghouses, including Operation Lifesaver, and funds the clearinghouses from a set-aside under HSIP.

Section 1409. Federal share payable

This section adds "engineering or design approaches" to the types of innovative project delivery methods that qualify a project to receive up to 100 percent federal share.

Section 1410. Elimination or modification of certain reporting requirements

The section eliminates two obsolete reporting requirements.

Section 1411. Technical corrections

This section makes technical corrections to title 23, MAP–21, and SAFETEA–LU.

Section 1412. Safety for users

This section encourages each state to adopt design standards for surface transportation projects that accommodate all motorized and non-motorized users. Within two years after the date of enactment, the Secretary is required to catalogue examples of state laws or transportation policies that provide for the accommodation of all users and disseminate examples of best practices.

Section 1413. Design standards

This section modifies what the Secretary must take into account when developing design standards for the NHS. It also gives a state the discretion to allow a local jurisdiction to use a different roadway design publication if certain criteria are met.

Section 1414. Reserve fund

This section clarifies that funds authorized for fiscal years 2019 through 2021 are only available if there is a subsequent act of Congress. This section also establishes a calculation to adjust the spending levels in the bill if receipts to the Highway Trust Fund are different from those estimated at the time of enactment.

Section 1415. Adjustments

This section rescinds unobligated balances of contract authority.

Section 1416. National electric vehicle charging, hydrogen, and natural gas fueling corridors

This section requires the Secretary to designate electric vehicle charging, hydrogen, and natural gas fueling corridors across the Nation to identify the needs and most vital locations for such fueling and charging infrastructure. The corridors will be updated and redesignated every five years.

Section 1417. Ferries

This section requires the Secretary to redistribute unobligated amounts of funding for the construction of ferry boats and ferry terminal facilities following the third fiscal year.

Section 1418. Study on performance of bridges

This section requires the Secretary to commission a study on the performance of bridges that are at least 15 years old and received funding under the Innovative Bridge Research and Construction Program. The study is to be completed within three years of the date of enactment.

Section 1419. Relinquishment of park-and-ride lot facilities

This section allows a state transportation agency to transfer park-and-ride lot facilities to a local government agency if rights-of-way on the Interstate System remain available for future highway improvements and modifications to the facilities that could impart the free flow of traffic remain subject to the approval of the Secretary.

Section 1420. Pilot program

This section allows the Secretary to establish a pilot program to allow a state to use innovative approaches to maintain the right-of-way on federal-aid highways in the state.

Section 1421. Innovative project delivery examples

This section clarifies that projects using innovative pavement technologies that have a demonstrated long lifecycle and are manufactured in a low greenhouse gas producing manner are eligible for a higher federal share.

Section 1422. Administrative provisions to encourage pollinator habitat and forage on transportation rights-of-way

This section adds a provision to encourage pollinator habitat and forage on transportation rights-of-way.

Section 1423. Milk products

This section adds fluid milk products, including bulk raw milk to the list of non-divisible loads, which authorizes states to issue permits to overweight vehicles carrying such products.

Section 1424. Interstate weight limits for emergency vehicles

This section establishes federal weight limits for emergency vehicles in excess of limits imposed on commercial motor vehicles.

Section 1425. Vehicle weight limitations—interstate system

This section exempts commercial tow trucks from federal weight limits during the time such trucks tow disabled vehicles to a repair facility.

Section 1426. New national goal, performance measure, and performance target

This section establishes a national goal of improving road conditions in economically-distressed urban communities and increasing access to jobs, markets, and economic opportunities. The Secretary

is to establish measures and the states are to establish targets to implement the new goal.

Section 1427. Service club, charitable association, or religious service signs

This section provides states the option of grandfathering existing service club, charitable association, or religious service signs with a size of 32 square feet or less.

Section 1428. Work zone and guard rail safety training

This section makes courses on guard rail installation, maintenance, and repair eligible for existing work zone safety training grants.

Section 1429. Motorcyclist advisory council

This section establishes a council to advise the Administrator of the FHWA on infrastructure issues of concern to motorcyclists.

Section 1430. Highway work zones

This section expresses the sense of the House of Representatives that the FHWA should do everything in its power to protect workers in highway work zones and finalize regulations on work zone safety.

Title II—INNOVATIVE PROJECT FINANCE

Section 2001. Transportation Infrastructure Financing and Innovation Act of 1998 amendments

This section makes changes to the TIFIA program, such as modifying the definition of a master credit agreement and a rural infrastructure project, establishing an eligible project cost for a local project, and providing federal funding for administrative expenses. This section also limits when the Secretary can redistribute unobligated and uncommitted amounts of funding for the TIFIA program.

Section 2002. State Infrastructure Bank Program

This section reauthorizes the State Infrastructure Bank Program for fiscal years 2016 through 2021.

Section 2003. Availability payment concession model

This section codifies an existing FHWA practice of allowing costs related to highway projects delivered by a public-private partnership that uses an advance construction authorization (23, USC, 115) coupled with the availability payment concession model to be eligible for Federal-aid reimbursement.

TITLE III—PUBLIC TRANSPORTATION

Section 3001. Short title

This section titles the bill, the "Federal Public Transportation Act of 2015."

Section 3002. Definitions

This section adds definitions for the terms "value capture" and "base-model bus".

Section 3003. Metropolitan and statewide transportation planning

This section provides for the consideration of intermodal facilities that support intercity transportation, including intercity buses and bus facilities, in long-range transportation plans and transportation improvement programs. This section also clarifies that a representative of a provider of public transportation may also serve as a representative of a local municipality and will have the same responsibilities, voting rights and other authorities as other officials serving on the MPO. This section acknowledges the role of intercity bus operators and employer-based commuting programs to reduce congestion. Lastly, this section enables transportation management areas to develop a congestion management plan that will identify activities that will reduce commute-related congestion.

Section 3004. Urbanized area formula grants

This section defines the term "recipient" and clarifies eligibility requirements by adding general public demand response under this section. It also provides an exception to the special rule to promote greater local decision-making and reduces the amount of mandated transit funds that must be spent on transit enhancements. The Committee recognizes the importance of public notification of the elimination of bus routes, and believes the Federal Transit Administration (FTA) should, to the greatest extent practicable, ensure public transportation agencies are notifying riders and the public in advance of the elimination of bus routes.

Section 3005. Fixed guideway capital investment grants

This section provides Small Starts applicants with an optional early rating. It clarifies the process for the advancement of a program of interrelated projects. This section also sets the grants for a New Starts projects at 50 percent and grants for Core Capacity and Small Starts projects at 80 percent of the net capital projects costs. Lastly, this section reforms the cost-effectiveness calculation to ensure that the cost of art and landscaping are included.

Section 3006. Formula grants for the enhanced mobility of seniors and individuals with disabilities

This section directs the Secretary to promote best practices for innovative approaches that have proven to improve mobility for seniors and individuals with disabilities.

Section 3007. Formula grants for rural areas

This section provides greater flexibility to states for their share of the project costs and to partner with intercity bus providers to support greater rural mobility.

Section 3008. Public transportation innovation

This section consolidates FTA research programs. This section allows for consortia to apply for zero emission deployment grants in order to support the use of clean air buses. It also requires that annual reports on research be accessible to the public.

Section 3009. Technical assistance and workforce development

This section consolidates the technical assistance and workforce development activities of the FTA. This section expands the activi-

ties that FTA can provide technical assistance to include meeting domestic content requirements and assisting with the development and deployment of zero emission technologies. It expands the focus of training to veterans and adds new eligibility for FTA to facilitate best practices for transit systems to protect drivers from driver assault. This section includes grants to address human resources needs, frontline workforce development, and reauthorizes the National Transit Institute.

Section 3010. Bicycle facilities

This section reduces the federal share for a project related to connecting bicycles with public transportation.

Section 3011. General provisions

This section prohibits the use of federal funds to pay for the incremental cost of incorporating art or landscaping into facilities. This section provides an increased federal share for the acquisition of a base-model bus. It also gradually increases Buy America domestic content in federally-funded rolling stock purchases. In carrying out this section, the Committee reminds FTA that, under current law, it has authority to conduct audits of domestic content certifications. This section allows recipients to use value capture as a local share. Finally, this section ensures compliance with federal competitiveness regulations.

Section 3012. Public transportation safety program

This section amends the National Public Transportation Safety Plan to include minimum safety standards that take into account recommendations from the NTSB, best practices developed by the industry, and any minimum standard or criteria developed by the public transportation industry. Additionally, this section provides the Secretary with the authority to assume oversight activities when certain public transportation systems have demonstrated that they are incapable of doing so. In carrying out this section, the Committee expects the Secretary and Federal Transit Administration to utilize all institutional knowledge at USDOT, including the Federal Railroad Administration, to expedite direct federal safety oversight of a rail fixed guideway system and avoid duplication. This section clarifies that safety enforcement actions are taken with respect to the recipient, not the state, and that the Secretary may withhold funds under this chapter when all other options fail to bring the recipient into compliance with safety requirements.

Section 3013. Apportionments

This section makes a technical correction to apportionments and repeals the current period of availability, makes other technical changes, and increases the set aside from the small transit intensive communities program for fiscal years 2019 through 2021.

Section 3014. State of good repair grants

This section clarifies definitions and provides flexibility for recipients under this section to use the funds to meet their state of good repair needs.

Section 3015. Authorizations

This section authorizes the programs under this title. It also establishes a uniform period of availability.

Section 3016. Bus and bus facility grants

This section provides capital funds for buses and bus related facilities. It continues the formula funds that provide consistent investment. This section also provides two additional components to address the bus state of good repair. It provides flexibility for grants to be pooled, allowing for large scale procurements and major bus facility projects. Lastly, this section funds a competitive grant component to update aged and inefficient fleets.

Section 3017. Obligation ceiling

This section establishes the annual obligation limitations for federal transit programs.

Section 3018. Innovative procurement

This section allows for the use of cooperative procurement to support cost-effective rolling stock purchases. It also establishes a joint procurement clearinghouse to allow for recipients to aggregate planned rolling stock purchases and identify joint procurement participants.

Section 3019. Review of public transportation safety standards

This section requires the Secretary to commence a review of safety standards and protocols in order to evaluate the need to establish federal minimum safety standards for public transportation. This section requires the Secretary to publish the review, evaluation, recommendations (including statutory changes) and actions the Secretary will take.

Section 3020. Study on evidentiary protection for public transportation safety program information

This section requires the GAO to complete a study on the evidentiary protection of safety information required under section 5329 of chapter 53 of title 49, United States Code.

Section 3021. Mobility of seniors and individuals with disabilities

This section provides for the coordination of public transportation services with other federally-assisted local transportation services. This provision encourages the Interagency Transportation Coordination Council on Access and Mobility to publish a strategic plan to implement coordination recommendations and develop a cost-sharing policy.

Section 3022. Improved transit safety measures

This section requires the Secretary to undertake a rulemaking to protect transit operators from assaults.

Section 3023. Paratransit system under FTA approved coordinated plan

This section allows paratransit systems currently coordinating complementary services to continue to use coordinated fare systems.

TITLE IV—HIGHWAY SAFETY

Section 4001. Authorization of appropriations

This section authorizes funds through fiscal year 2021 for the highway safety programs and administrative expenses of the NHTSA at levels consistent with the CBO's baseline projections for the Highway Trust Fund.

Section 4002. Highway Safety Programs

This section encourages states to adopt programs to increase driver awareness of commercial motor vehicles (CMV) and how to operate safely around CMVs. It also makes data available on how states are following federal guidelines for automated red light and speed enforcement cameras. Finally, it reduces administrative burdens on states by requiring NHTSA to accept highway safety plans in electronic form.

The Committee is concerned about the dangers posed by unsecured loads on non-commercial vehicles. Federal grant funds for state-run safety campaigns raising awareness about the dangers posed by unsecured loads are currently eligible under State Highway Safety Programs (23 U.S.C. 402). Therefore, the Committee encourages states to address unsecured loads the next time they submit their State Highway Safety Program for approval by the Secretary.

Section 4003. Highway safety research and development

This section authorizes NHTSA to work with industry and academia on advancements in ignition interlocks and other safety technologies that help determine whether a driver exceeds alcohol impairment standards. It also requires NHTSA inform participants in programs that collect data on drug or alcohol use that their participation is voluntary. Finally, this section clarifies the federal share of cooperative research activities carried out by NHTSA.

Section 4004. High-Visibility Enforcement Program

This section codifies the High Visibility Enforcement Program and authorizes funds to be used on campaigns to reduce distracted driving.

Section 4005. National Priority Safety Programs

This section enables states to spend more funds on the pressing safety needs unique to their state by increasing the percentage of National Priority Safety Program funds that can be flexed to each state's traditional safety program under section 402 of title 23, United States Code. This section also reforms the Impaired Driving Countermeasures, Distracted Driving, and State Graduated Driver License Incentive programs to reduce barriers to state eligibility and improve incentives for states to adopt laws and regulations to improve highway safety. Finally, this section authorizes five percent of National Priority Safety Program funds to be spent on a new initiative on nonmotorized safety. States with combined pedestrian and bicycle fatalities that exceed 15 percent of total crash fatalities in that state are eligible to receive grant funds under the nonmotorized safety initiative to reduce such fatalities.

Section 4006. Prohibition on funds to check helmet usage or create related checkpoints for a motorcycle driver or passenger

This section prohibits the use of federal funds on motorcycle helmet checkpoints.

Section 4007. Marijuana-impaired driving

This section requires the Secretary to conduct a study on marijuana impaired driving, including the feasibility of establishing an impairment standard for drivers under the influence of marijuana and provide recommendations.

Section 4008. National Priority Safety Program grant eligibility

This section requires NHTSA to release information on which states were awarded funds under the National Priority Safety Program and which states were determined to be ineligible. NHTSA is required to provide ineligible states a list of deficiencies to correct in order to ensure their eligibility in the future.

Section 4009. Data collection

This section continues a program to improve the availability of data on traffic stops.

Section 4010. Technical corrections

This section makes technical corrections to chapter 4 of title 23, United States Code.

TITLE V—MOTOR CARRIER SAFETY

Subtitle A—Motor Carrier Safety Grant Consolidation

Section 5101. Grants to states

This section consolidates nine existing Federal Motor Carrier Safety Administration (FMCSA) grant programs into four and streamlines program requirements to reduce administrative costs and improve flexibility for states. It makes several reforms to grant programs, including awarding priority to programs that train veterans and to incentivizing the adoption of innovative truck and bus safety technologies. These changes take effect in fiscal year 2017. This section also authorizes funds for the consolidated grant programs for fiscal years 2017 through 2021 at levels consistent with the CBO's baseline projections for the Highway Trust Fund.

This section also requires that states grant maximum reciprocity for inspections conducted using a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles. The Committee believes that decals used to meet this requirement should adhere to design and functional requirements as specified by the Secretary.

Section 5102. Performance and registration information systems management

This section makes a conforming amendment to section 31106(b) of title 49, United States Code.

Section 5103. Authorization of appropriations

This section authorizes the administrative expenses of the FMCSA for fiscal years 2016 through 2021 at fiscal year 2015 enacted levels.

Section 5104. Commercial driver's license program implementation

This section directs more of the available funding for implementing federal standards for commercial driver's licenses to the states by eliminating the set aside for emerging and national issues related to commercial drivers licensing.

Section 5105. Extension of Federal Motor Carrier Safety Programs for fiscal year 2016

This section authorizes fiscal year 2016 funding for FMCSA grant programs as these programs currently exist. Funding is provided at levels consistent with the CBO's baseline projections for the Highway Trust Fund.

Section 5106. Motor Carrier Safety Assistance Program allocation

This section establishes a temporary working group of outside experts to advise the Secretary in the development of a new allocation formula for the Motor Carrier Safety Assistance Program. Prior to the development of a new formula, this section authorizes the use of an interim formula.

Section 5107. Maintenance of effort calculation

This section establishes an interim maintenance of effort calculation for the fiscal years prior to the implementation of a new Motor Carrier Safety Assistance Program allocation formula. It further authorizes the Secretary to modify the maintenance of effort calculation once a new allocation formula is implemented.

Subtitle B—Federal Motor Carrier Safety Administration Reform

Part I—Regulatory Reform

Section 5201. Notice of cancellation of insurance

This section authorizes the Secretary to suspend, in lieu of revoking, the operating authority of motor carriers during temporary lapses in insurance coverage.

Section 5202. Regulations

This section makes several reforms to the process FMCSA must follow when developing new motor carrier regulations to improve transparency and accountability. It also requires the FMCSA to revise or repeal regulations every five years if they are no longer current, consistent, and uniformly enforced.

Section 5203. Guidance

This section reforms the process FMCSA uses to issue regulatory guidance and enforcement policies. It requires FMCSA to ensure guidance and enforcement policies are publicly accessible, regularly reviewed to ensure consistency and relevancy, and incorporated into regulations whenever possible.

Section 5204. Petitions

This section reforms the process FMCSA uses when considering petitions for regulatory actions. It requires FMCSA to make the petitions publicly accessible and sets a deadline for the agency to formally respond.

Part II—Compliance, Safety, Accountability Reform

Section 5221. Correlation study

This section requires the Administrator of the FMCSA to commission the National Academies to conduct a study on ways to improve the Compliance, Safety, Accountability (CSA) program and provide Congress and the Inspector General of the Department of Transportation (Inspector General) with a report on the study's findings. The section also requires the Administrator to provide a corrective action plan to Congress describing the improvements that will be made to the CSA program. The Inspector General is required to review the corrective action plan to ensure it is responsive to the study's findings.

Section 5222. Beyond compliance

This section authorizes the Administrator to incentivize motor carriers to install the latest safety technology on trucks and buses, adopt enhanced driver safety measures, implement safety management programs, and undertake other safety activities by having such activities be reflected in FMCSA's calculation of safety scores.

Section 5223. Data certification

This section prohibits the publication of CSA program scores and certain other data until the Inspector General certifies that the corrective action plan under section 5221 and improvements to the CSA program are implemented.

Section 5224. Interim hiring standard

This section provides limited liability relief to shippers and brokers that hire motor carriers with satisfactory safety ratings from the FMCSA.

Subtitle C—Commercial Motor Vehicle Safety

Section 5301. Implementing Safety Requirements

This section accelerates the implementation of important FMCSA safety regulations required by law.

Section 5302. Windshield mounted safety technology

This section updates regulations to allow for the mounting of innovative safety technologies on truck and bus windshields.

Section 5303. Prioritizing statutory rulemakings

This section requires the Administrator to prioritize the completion of rulemakings required by law.

Section 5304. Safety reporting system

This section requires the GAO to report to Congress on the feasibility of establishing a self-reporting system for motor carriers to report and correct en route equipment failures.

Section 5305. New Entrant Safety Review Program

This section requires the Secretary to assess the effectiveness of the FMCSA's new operator safety review program and report to Congress on the results of the assessment.

Section 5306. Ready mixed concrete trucks

This section makes permanent the current administrative exemption from compliance with the hours of service 30 minute rest break requirement for drivers of ready mix concrete trucks.

Subtitle D—Commercial Motor Vehicle Drivers

Section 5401. Opportunities for veterans

This section requires the Secretary to reduce regulatory barriers faced by veterans seeking employment as commercial truck and bus drivers.

Section 5402. Drug free commercial drivers

This section authorizes the use of hair testing as an alternative to urine tests to screen for possible drug and alcohol use by commercial truck and bus drivers once standards have been established by for the Department of Health and Human Services. The section sets a one year deadline for the Department of Health and Human Services to establish federal standards for hair testing.

The FMCSA has informed the Committee and the Committee agrees that nothing in this section authorizes the use of hair testing as an alternative to urine tests until the U.S. Department of Health and Human Services establishes federal standards for hair testing.

Section 5403. Certified medical examiners

This section authorizes the Secretary to grant exemptions on a case-by-case basis to drivers that receive fitness determinations from medical examiners that are not on the National Registry of Certified Medical Examiners.

Section 5404. Graduated Commercial Driver's License Pilot Program

This section authorizes the Secretary to establish a limited pilot program for up to six agreements of contiguous states to allow drivers between the ages of 19½ and 21 to operate commercial motor vehicles across state lines. The section establishes a task force to inform the Secretary on the parameters of the pilot program prior to its establishment.

Section 5405. Veterans expanded trucking opportunities

This section authorizes physicians employed by the U.S. Department of Veterans Affairs to certify the fitness of and provide a medical certificate to veterans with commercial driver's licenses.

Subtitle E—General Provisions

Section 5501. Minimum financial responsibility

This section requires the Secretary to consider several factors prior to issuing a final rule that would change minimum insurance requirements for commercial trucks. It also requires the Secretary to conduct a study of current levels of minimum insurance for commercial buses prior to initiating a rulemaking that would change such levels.

Section 5502. Delays in goods movement

This section requires the Inspector General to report on the impacts of delays in the pick-up and delivery of goods by motor carriers and drivers and make recommendations to Congress on ways to mitigate the delays. It also requires the Secretary to establish a process to collect data on delays.

The Committee intends this provision to be carried out to identify delays experienced by commercial motor vehicle drivers, including during the loading and unloading of goods at shipper and receiver facilities. The Committee does not intend this provision to measure productivity at ports.

Section 5503. Report on motor carrier financial responsibility

This section requires the Secretary to publish a report prior to April 1, 2016 on the current levels of minimum insurance for commercial trucks.

Section 5504. Emergency route working group

This section establishes a temporary working group to advise the Secretary on ways to expedite the response time by utility and other vehicles providing emergency response and restoration to disaster zones. The Secretary is required to inform Congress on the actions that will be taken to implement the recommendations of the working group.

Section 5505. Household goods consumer protection working group

This section establishes a temporary working group to advise the Secretary on ways to improve public understanding of household goods movement and consumer protections.

Section 5506. Technology improvements

This section requires the GAO to report to Congress on ways to improve FMSCA's information technology and data collection systems.

Section 5507. Notification regarding motor carrier registration

This section requires the Secretary to inform Congress on the actions that will be taken to reduce delays in the registration of new motor carriers.

Section 5508. Report on commercial driver's license skills test delays

This section requires the Administrator of the FMCSA to report to Congress on the delays experienced by individuals seeking to take the skills test portion of their commercial driver's license

exam and what actions the Administrator is taking to address the delays.

Section 5509. Covered farm vehicles

This section clarifies current law to ensure that states do not lose federal transportation funding when enacting state laws or regulations that provide exemptions or other minimum standards for operation of farm vehicles, including drivers of those vehicles, that are less stringent than the standards established for commercial motor vehicles and drivers under federal transportation laws and regulations.

In implementing Section 32934 of MAP–21, FMCSA determined that the language in subsection (b) which ensures that federal transportation funds to a state would "not be terminated, limited, or otherwise interfered with", only applied with respect to the exemptions enumerated in subsection (a) and not with respect to any further exemption or other minimum standard imposed by state law or regulation. This section clarifies that states which enact laws or regulations that exempt or impose other minimum standards beyond those enumerated in subsection (a) for farm vehicles and the drivers of such vehicles will not lose federal transportation funds. FMCSA reviewed this section and informed the Committee that it will be implemented in the manner described above.

Section 5510. Operators of hi-rail vehicles

This section ensures that up to two hours (and no more than 30 hours per month) of the time spent by an operator of a hi-rail vehicle driving to or from a duty assignment does not count toward the total "on-duty" time with respect to FMCSA's hours of service regulations. It also ensures that such drivers may respond to an emergency situation without violating such hours of service regulations.

Section 5511. Electronic logging device requirements

This section clarifies that motor carriers transporting motor homes or recreational vehicles to dealers or customers can continue to comply with the hours of service record of duty status requirements with a paper form.

Section 5512. Technical corrections

This section makes technical corrections to title 49, United States Code, and other motor carrier laws.

Section 5513. Automobile transporter

This section prohibits states from imposing a limitation of less than 80 feet on the length of a stinger steered automobile transporter operating on the NHS and certain other roads.

Section 5514. Ready mix concrete delivery vehicles

This section clarifies that drivers of ready mix concrete trucks can utilize the hours of service 100 air-mile radius logbook exemption as long as such drivers do not exceed 14 consecutive hours of on-duty time per shift.

Title VI—Innovation

Section 6001. Short title

This section titles the bill, the "Transportation for Tomorrow Act of 2015."

Section 6002. Authorization of appropriations

This section authorizes funds through fiscal year 2021 for the innovation and research activities overseen by the USDOT. This section would authorize sums out of the Highway Account of the Highway Trust Fund for the Highway Research and Development Program, Technology and Innovation Deployment Program, training and education, Intelligent Transportation Systems (ITS) Program, University Transportation Centers (UTC), and the Bureau of Transportation Statistics.

Section 6003. Advanced transportation and congestion management technologies deployment

This section establishes a competitive grant program to deploy advanced transportation and congestion management technologies in order to support innovative solutions to transportation challenges.

Section 6004. Technology and innovation deployment program

This section updates the technology and innovation deployment program and requires a transparency report on the cost and benefits of deployment activities under this chapter.

Section 6005. Intelligent transportation system goals

This section updates the goals of ITS activities to acknowledge the role of ITS in the movement of freight.

Section 6006. Intelligent transportation system program report

This section requires that the report on the ITS activities at USDOT be published on an USDOT website.

Section 6007. Intelligent transportation system national architecture and standards

This section updates the eligible entities that can participate in standards development activities for ITS.

Section 6008. Communication systems deployment report

This section requires a publically-available report on vehicle-to-vehicle and vehicle-and-infrastructure communications systems deployment.

Section 6009. Infrastructure development

This section reaffirms that the funds made available for ITS activities should be focused on only that, and not be diverted for construction of physical infrastructure. This section also reestablishes a previous restriction on the use of ITS research funding for construction projects.

Section 6010. Departmental research programs

This section codifies the research activities of the USDOT in the Office of Assistant Secretary for Research and Technology.

Section 6011. Research and Innovative Technology Administration

This section repeals the defunct Research and Innovative Technology Administration, which was elevated to the Office of Assistant Secretary for Research and Technology in the previous section.

Section 6012. Office of Intermodalism

This section repeals the defunct Office of Intermodalism at USDOT.

Section 6013. University transportation centers

This section reauthorizes the competitive grants to UTCs. This section also maximizes research results by focusing on consortia; clarifies awards terms; reflects that there are no longer any FTA funds directed to the UTC Program; includes outreach to minorities and women as a consideration for awards, expands the current consideration of minority institutions from tier one to all awards, and provides flexible grant award amounts.

Section 6014. Bureau of Transportation statistics

This section makes minor technical corrections and includes language that affirms the impartiality of the Bureau of Transportation Statistics as a statistical entity.

Section 6015. Surface transportation system funding alternatives

This section establishes a competitive grant program for states to demonstrate alternative funding mechanisms in order to provide valuable feedback on the ability of these mechanisms to fund surface transportation projects and programs.

Section 6016. Future interstate study

This section authorizes the National Academy of Science's Transportation Research Board to carry out a study on the actions needed to take care of the Interstate System. It directs that the plan include recommendations regarding the features, standards, capacity needs, application of technologies, and investment that will be required to upgrade the Interstate System to meet future needs.

Section 6017. Highway efficiency

This section provides the Secretary with the authority to carry out research regarding pavement resilience.

Section 6018. Motorcycle safety

This section provides the Secretary the authority to enter in to an agreement with the National Academies of Science to conduct a study on the most effective means of preventing motorcycle crashes.

Section 6019. Hazardous material research and development

This section adds coordination with other federal agencies to hazardous material research. Additionally, this section provides the Secretary the authority to enter in to cooperative research agree-

ments with the National Academies to carry out research on hazardous materials transportation.

Section 6020. Web-based Training for emergency responders

This section adds online curriculum to the training for emergency responders.

Section 6021. Transportation technology policy working group

This section provides the Assistant Secretary for Research and Technology the authority to convene a working group to promote interagency cooperation for transportation research.

Section 6022. Collaboration and support

This section supports increased collaboration between federal research agencies and national laboratories.

Section 6023. Prize competitions

This section updates surface transportation research, development, and technology to conform to other federal prize competition law.

Section 6024. GAO report

This section requires that the GAO make an evaluation of the USDOT's ability to address emerging transportation technologies.

Section 6025. Intelligent Transportation System Purposes

This section adds cooperation between modal administrations and other federal agencies to promote cyber security standards for the Intelligent Transportation System Purposes of the USDOT.

Section 6026. Infrastructure integrity

This section adds corrosion prevention measures to infrastructure integrity research efforts that may be undertaken by the Secretary.

Title VII—Hazardous Materials Transportation

Section 7001. Short title

This section titles the bill, the "Hazardous Materials Transportation Safety Improvement Act of 2015."

Section 7002. Authorization of appropriations

This section authorizes hazmat safety and grant programs for fiscal years 2016 through 2021 at baseline levels. Given current balances in the hazardous material emergency preparedness grant program fund, the Committee believes that such authorizations plus elimination of a provision that unintentionally resulted in PHMSA de-obligating certain grant funding for states and Indian tribes will not require an increase in fees on industry.

Section 7003. National emergency and disaster response

This section streamlines the process by which PHMSA can approve hazmat transportation during national emergencies. This provision will allow for hazmat products to be moved quicker in

and out of federally declared natural disaster areas while ensuring safety.

Section 7004. Enhanced reporting

This section makes a report on the overall transportation of hazardous materials (e.g., enforcement activities, permits, incidents, and accidents) public on USDOT's website, rather than just a transmittal to Congress. This will allow the public to access this information.

Section 7005. Wetlines

This section requires PHMSA to withdraw the notice of proposed rulemaking issued on January 27, 2011, entitled "Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids", i.e., the "wetlines" rulemaking. A MAP–21-mandated GAO report found that PHMSA did not have sufficient data to analyze the costs and benefits of the proposed rulemaking. The section includes a safety clause assuring PHMSA retains the authority to issue regulations on wetlines, following withdrawal of the rule.

Section 7006. Improving publication of special permits and approvals

This section makes changes to speed up the process and add transparency to PHMSA's procedures for approving special permits and approvals. Delays in processing special permits and approvals can have significant effects on innovation and the competitiveness of American companies. Special permits are designed to allow individuals to transport hazardous materials in new and innovative ways that are not contemplated by the regulations, so long as those means of transportation provide an equivalent level of safety. Approvals are what certain hazardous materials, such as fireworks or explosives, need to be transported throughout the country, because a means of transport are not provided for under the regulations. Therefore, to the extent a special permit or approval is delayed, the competitiveness of the industries that need them is affected. However, it is important to evaluate and consider public comment on the safety effects of applications for special permits and approvals prior to their issuance.

First, this section ensures that all applications for new or modified special permits are made available in the Federal Register. Further, any other special permit must be posted on USDOT's website and allow for a comment period no longer than 15 days. This will ensure the public has notice of all special permits filed with PHMSA. Similarly, the provision requires that PHMSA notify the public at least every 120 days of the final disposition of all special permits and approvals during the preceding quarter. This creates greater transparency into the processes for both special permits and approvals, so that the public will better understand how hazardous materials are being transported.

The section also shortens the timeframe by 60 days for PHMSA to either dispose of a special permit or notify the public of its reasoning for the delay. In current law, the timeframe is 180 days and only applies to special permits, this provision not only shortens that time period to 120 days, it also expands the notification to in-

clude approvals. Overall, by enhancing the transparency of the decision-making process and including approvals along with special permits, the public will have better insight into how hazardous materials are safely transported throughout the country.

Section 7007. GAO study on acceptance of classification examinations

Currently, PHMSA has a process by which it approves laboratories to conduct third-party classifications for certain types of hazardous materials. Once a laboratory recommends a certain classification, PHMSA must evaluate it for approval or disapproval. This section directs the GAO to conduct a study, which will be transmitted to the House Committee on Transportation and Infrastructure Committee and the Senate Committee on Commerce, Science, and Transportation, on the standards, metrics, and protocols that the Secretary uses to regulate the performance of persons approved to recommend hazmat classifications, commonly referred to as third-party labs. The Secretary, 120 days after completion of the study, must then develop an action plan on how to improve the classification examination process. If GAO recommends new regulations in order for the Secretary to have confidence in the accuracy of classification recommendations rendered by third-party labs, the Secretary has 24 months for issuance.

Section 7008. Improving the effectiveness of planning and training grants

This section would streamline the emergency response planning and training grant program for states and Indian tribes. Through this existing program, the Secretary makes grants to states and Indian tribes, to develop, improve, and carry out emergency plans; decide on the need for a regional hazmat emergency response team; train hazmat instructors; and train public sector employees to respond to accidents and incidents involving hazardous materials.

This grant program has not been effective for many states and Indian tribes because of the limited timeframe for which funding is available and the inability of states to decide how much grant funding to spend on training and planning. This section fixes both of these concerns by empowering states and Indian tribes to decide how much grant funding to spend on planning and how much on training. It also allows states more flexibility to spend grant funds by making them available until expended. This section further amends the competitive hazardous materials employee training grants under section 5107 to allow for programs that train those who enforce hazardous materials regulations to be eligible. These changes will empower states and Indian tribes to better plan and train for hazardous materials related incidents.

Section 7009. Motor carrier safety permits

The intent of the Hazardous Material Safety Permit (HMSP) program was to reduce the frequency and severity of crashes by carriers moving listed classes of hazardous materials. In MAP–21, Congress required FMCSA to initiate a rulemaking to address the deficiencies in the HMSP program. Despite recognition of problems with the program in a report mandated by MAP–21, FMCSA has said that it will not pursue the HMSP rulemaking mandated by

Congress until the agency finalizes the safety fitness determination rulemaking. The rulemaking is expected to take years to complete.

In the meantime, carriers are still at risk of being shut down because the program lacks adequate due process. This section would address this long-standing industry concern by allowing carriers to submit corrective actions or other documentation proving their safety worthiness, prior to FMCSA denying a permit. This will ensure that many of these small businesses are not shut down without an opportunity to first take corrective action.

Section 7010. Thermal blankets

This section strengthens the safety of crude by rail shipments by requiring each tank car built to meet the DOT–117 specification and each non-jacketed tank car modified to meet the DOT–117R specification to be equipped with a ½-inch thick, insulated "thermal blanket" that is applied between the outer surface of a tank car tank and the inner surface of a tank car jacket, to ensure a tank car can survive pool fire and provide appropriate protection to emergency responders in case of fire.

This section enhances the May 2015, rulemaking released by USDOT, which issued more stringent tank car standards to DOT–117s. This section focuses on safety improvements that are designed to mitigate consequences in the event of an accident and support emergency response. Additionally, this section allows the Secretary to approve new or alternative technologies or materials that become available and provide a level of safety at least equivalent to the level provided.

Section 7011. Comprehensive oil spill response plans

This section improves crude by rail safety measures by requiring each railroad carrier transporting a Class 3 flammable liquid to maintain a comprehensive oil spill response plan. The response plan will consist of response procedures, including equipment for responding to a worst case scenario discharge; planning and response measures consistent with the National Contingency Plan and applicable Area Contingency Plan; include appropriate notification and training procedures and other procedures for coordinating with federal, state, and local emergency responders; and review and update its plan in appropriate manner.

Additionally, this section requires the Secretary to maintain each railroad carriers' oil spill response plan on file and provide a copy to any person upon request, excluding proprietary or security sensitive information.

Section 7012. Information on High-Hazard Flammable Trains

This section requires the Secretary to issue regulations requiring railroads carriers to notify SERCs regarding movement of High Hazard Flammable Trains (HHFT). The Secretary is to include in the rulemaking proper protection from public release of such information. Such regulations shall not prohibit the disclosure of such information to officials of emergency response and planning organizations or others with a "need to know" as defined under such regulations.

On May 1, 2015, USDOT released the Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable

Trains Final Rule (PHMSA–2012–0082)(HHFT Rule). This rule defined an HHFT as a continuous block of 20 or more tank cars loaded with a flammable liquid or 35 or more tank cars loaded with a flammable liquid dispersed through a train. Prior to this final rule, USDOT released Emergency Order Docket No. DOT–OST–2014–0067, which required railroads to supply SERCs with information of HHFT movements within their state. After publication, USDOT clarified that it expected that states would not make security-sensitive or proprietary information public.

This section would require USDOT to conduct a rulemaking to make the Emergency Order permanent, but also ensure that security-sensitive and proprietary information be protected.

Section 7013. Study and testing of electronically-controlled pneumatic brakes

This section requires the GAO to conduct a study on the data on the effectiveness, use, costs, and benefits of electronically-controlled pneumatic (ECP) brake systems, and report to Congress on its results. This section also requires the National Academy of Sciences to conduct testing, including a derailment scenario, on the performance of ECP brakes.

The HHFT Rule requires that railroads operate high hazard flammable unit trains (defined as a train comprised of 70 or more loaded tank cars containing Class 3 flammable liquids) with ECP braking systems by January 1, 2021, if at least one Packing Group 1 flammable liquid is being transported. All other high hazard flammable unit trains would need to be operated with ECP brakes by May 1, 2023.

ECP braking systems have not been used extensively in the United States, and there is limited data and testing on their effectiveness during derailments. This section would test their application in such a scenario. Based on the results of the testing, the Secretary is then required to update its regulatory impact analysis and determine whether to retain or repeal the ECP brake requirement contained in the recent Enhanced Tank Car Standards and Operational Controls for HHFT Rule.

Section 7014. Ensuring safe implementation of positive train control systems

This section extends the deadline by which freight, passenger, and commuter railroads are required to implement Positive Train Control (PTC) systems on certain lines carrying toxic-by-inhalation hazardous (TIH) materials, or on which regularly scheduled intercity passenger or commuter rail services are provided. The Rail Safety Improvement Act of 2008 (P.L. 110–432, Division A) mandated that PTC, a communications-based system designed to prevent certain rail accidents, be implemented by December 31st, 2015. Due to a host of technical, programmatic, and financial challenges (with respect to publicly-funded entities), almost all railroads will not complete implementation by December 31, 2015.

This section would extend the full implementation deadline to December 31, 2018. Railroads would be required to revise their PTC implementation plans to reflect this new deadline, including detailed milestones and metrics to allow USDOT, Congress, and the public to monitor railroads' progress towards implementation.

If railroads cannot meet the 2018 deadline, they may request additional time, not to exceed 24 months beyond December 31, 2018, but as soon as practicable.

The Secretary may only grant additional time if certain milestones have been completed, such as full installation of equipment, full acquisition of necessary spectrum, and in the case of Class 1 railroads and Amtrak, at least a majority of a railroad's route miles must have PTC in revenue service demonstration or fully implemented. Other railroads and entities must be in revenue service demonstration or have fully implemented PTC on at least one territory or meet other criteria established by the Secretary. A railroad will notify the Secretary when it has completed the necessary milestones and is ready for review, and USDOT will assess each railroad's request on a case-by-case basis.

All railroads must report annually on progress against their overall revised plans, and those progress reports will be made public. DOT is also required to continually review and report to the public and Congress on the railroads' progress toward PTC implementation.

Section 7015. Phase-out of all tank cars used to transport Class 3 flammable liquids

This section would require that all tank cars carrying Class 3 flammable liquids be required to meet the DOT–117 or DOT–117R tank car specifications.

On May 1, 2015, USDOT released the Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains Final Rule (PHMSA–2012–0082). This rule set dates by which certain flammable liquids would be required to be transported in new DOT–117 or DOT–117R tank car specifications, if carried in a High-Hazard Flammable Train (HHFT), which is defined as a continuous block of 20 or more tank cars loaded with a flammable liquid or 35 or more tank cars loaded with a flammable liquid dispersed through a train. The rule set for a schedule under which certain types of flammable liquids, identified by packing group, would be no longer able to be transported in various types of legacy DOT–111 or CPC–1232 tank cars.

While the final rule will result in the retirement or retrofit of the vast majority of legacy tank cars, upwards of 35,000 tank cars would not be retired or retrofitted under the final rule because such cars would not be transported in sufficient quantity to reach the HHFT thresholds. Therefore, this section would require the remainder of the Class 3 flammable liquids (other than unrefined petroleum products, including crude oil, and ethanol) to be transported in DOT–117 or DOT–117R tank cars by May 1, 2025 for Packing Group I, and May 1, 2029 for Packing Groups II and III. The section also provides the Secretary authority to adjust those deadlines by a period not to exceed two years if the Secretary finds there is insufficient shop capacity. This section also codifies the phase-out schedule for unrefined petroleum products, including crude oil, and ethanol.

TITLE VIII—MULTIMODAL FREIGHT TRANSPORTATION

Section 8001. Multimodal freight transportation

This section establishes a national multimodal freight policy with the goal of implementing policies, infrastructure improvements, and operational innovations that will improve the efficient movement of goods across all modes of transportation. The section also establishes a national freight strategic plan and designates a National Multimodal Freight Network, including strategic highway, rail, port, inland waterway, and aviation assets. Further, this section encourages each state to establish a freight advisory committee with representatives from a cross-section of public and private sector freight stakeholders, and requires each state to develop a freight plan, separately from or as part of the state's larger transportation plan.

TITLE IX—NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU

Section 9001. National Surface Transportation and Innovative Finance Bureau

This section establishes the National Surface Transportation and Innovative Finance Bureau (Bureau) within the USDOT, which serves as a one-stop-shop for states and local governments, to receive federal funding or financing assistance, as well as technical assistance, in order to move forward with complex surface transportation projects. This section directs the Bureau to administer the application process for various competitive grant programs and credit assistance programs; promote innovative financing best practices; reduce uncertainty and delays with environmental reviews and permitting; reduce costs and risks to taxpayers in project delivery and procurement; and carry out various multi-modal freight activities. Lastly, this section gives the Secretary the authority to consolidate or eliminate different offices within USDOT.

Section 9002. Council on Credit and Finance

This section establishes a Council on Credit and Finance (Council) within USDOT. This section requires the Council to review applications for various competitive grant programs and credit assistance programs and then make recommendations to the Secretary about which applications should receive federal funding or financing assistance.

TITLE X—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY

Section 10001. Allocations

This section reauthorizes expenditure authority for the Dingell-Johnson Sport Fish Restoration Act through FY 2021. It also combines Clean Vessel Act (CVA) Grants and Boating Infrastructure Grants (BIG) into a single Boating Infrastructure Improvement grant program. This consolidation reduces administrative costs and increases the states' flexibility in choosing boating infrastructure projects without restricting the choices of projects types from which the states can choose. This section provides parity for the Coast

Guard by establishing a set-aside for the Service's administrative expenses. Finally, this section makes adjustments to the apportionment of funds available to ensure funding for grant programs are not reduced as the result of reforms made to the treatment of administrative expenses.

The majority of the USFWS's grants management work with state fish and wildlife agencies occurs at the regional level. As a result, the Committee directs the USFWS to prioritize the use of administrative funds by regional offices to improve grant administration timeliness and responsiveness to state fish and wildlife agencies.

Section 10002. Recreational boating safety

This section clarifies the authorized uses for the funds set aside for Coast Guard administrative expenses.

The Committee understands that funds provided under Section 10001 are sufficient to pay the salaries and expenses of some, but not all, of the personnel whose duties exclusively involve boating safety, but who are currently funded out of the Service's Operating Expenses account. Under the authority provided by this section, the Committee expects the Coast Guard to use the additional funds provided under Section 10001 to pay only the salaries and expenses of personnel whose duties exclusively involve boating safety.

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 italics, and existing law in which no change is proposed is shown in roman):

TITLE 23, UNITED STATES CODE

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CHAPTER 1—FEDERAL-AID HIGHWAYS

Sec.
101. Definitions and declaration of policy.

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105. Adjustments to contract authority.

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117. Nationally significant freight and highway projects.

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[133. Surface transportation program.]
133. Surface transportation block grant program.

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151. National electric vehicle charging, hydrogen, and natural gas fueling corridors.

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[167. National freight program.]
167. National highway freight policy.

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§ 101. Definitions and declaration of policy

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

(1) APPORTIONMENT.—The term "apportionment" includes unexpended apportionments made under prior authorization laws.

(2) ASSET MANAGEMENT.—The term "asset management" means a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on both engineering and economic analysis based upon quality information, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost.

(3) 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, designating existing facilities for use for preferential parking for carpools, and real-time ridesharing projects, such as projects where drivers, using an electronic transfer of funds, recover costs directly associated with the trip provided through the use of location technology to quantify those direct costs, subject to the condition that the cost recovered does not exceed the cost of the trip provided.

(4) CONSTRUCTION.—The term "construction" means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway or any project eligible for assistance under this title, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program. Such term includes—

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

(B) reconstruction, resurfacing, restoration, rehabilitation, and preservation;

(C) acquisition of rights-of-way;

(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

(E) elimination of hazards of railway-highway grade crossings;

(F) elimination of roadside hazards;

(G) improvements that directly facilitate and control traffic flow, such as grade separation of intersections, wid-

ening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas; and

(H) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

(5) COUNTY.—The term "county" includes corresponding units of government under any other name in States that do not have county organizations and, in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

(6) FEDERAL-AID HIGHWAY.—The term "Federal-aid highway" means a public highway eligible for assistance under this chapter other than a highway functionally classified as a local road or rural minor collector.

(7) FEDERAL LANDS ACCESS TRANSPORTATION FACILITY.—The term "Federal Lands access transportation facility" means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government.

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

(9) FOREST DEVELOPMENT ROADS AND TRAILS.—The term "forest development roads and trails" means forest roads and trails under the jurisdiction of the Forest Service.

(10) FOREST ROAD OR TRAIL.—The term "forest road or trail" means a road or trail wholly or partly within, or adjacent to, and serving the National Forest System that is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

(11) HIGHWAY.—The term "highway" includes—

(A) a road, street, and parkway;

(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure including public roads on dams, sign, guardrail, and protective structure, in connection with a highway; and

(C) a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

(12) INTERSTATE SYSTEM.—The term "Interstate System" means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

(13) MAINTENANCE.—The term "maintenance" means the preservation of the entire highway, including surface, shoul-

ders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway.

(14) MAINTENANCE AREA.—The term "maintenance area" means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(15) NATIONAL HIGHWAY FREIGHT NETWORK.—The term "National Highway Freight Network" means the National Highway Freight Network established under section 167.

[(15)**]** *(16)* NATIONAL HIGHWAY SYSTEM.—The term "National Highway System" means the Federal-aid highway system described in section 103(b).

[(16)**]** *(17)* OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term "operating costs for traffic monitoring, management, and control" includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control, such as integrated traffic control systems, incident management programs, and traffic control centers.

[(17)**]** *(18)* OPERATIONAL IMPROVEMENT.—The term "operational improvement"—

(A) means (i) a capital improvement for installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, incident management programs, and transportation demand management facilities, strategies, and programs, and (ii) such other capital improvements to public roads as the Secretary may designate, by regulation; and

(B) does not include resurfacing, restoring, or rehabilitating improvements, construction of additional lanes, interchanges, and grade separations, and construction of a new facility on a new location.

[(18)**]** *(19)* PROJECT.—The term "project" means any undertaking eligible for assistance under this title.

[(19)**]** *(20)* PROJECT AGREEMENT.—The term "project agreement" means the formal instrument to be executed by the Secretary and the recipient as required by section 106.

[(20)**]** *(21)* PUBLIC AUTHORITY.—The term "public authority" means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

[(21)**]** *(22)* PUBLIC ROAD.—The term "public road" means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

[(22)**]** *(23)* RURAL AREAS.—The term "rural areas" means all areas of a State not included in urban areas.

[(23)**]** *(24)* SAFETY IMPROVEMENT PROJECT.—The term "safety improvement project" means a strategy, activity, or project on a public road that is consistent with the State strategic highway safety plan and corrects or improves a roadway fea-

ture that constitutes a hazard to road users or addresses a highway safety problem.

[(24)] *(25)* SECRETARY.—The term "Secretary" means Secretary of Transportation.

[(25)] *(26)* STATE.—The term "State" means any of the 50 States, the District of Columbia, or Puerto Rico.

[(26)] *(27)* STATE FUNDS.—The term "State funds" includes funds raised under the authority of the State or any political or other subdivision thereof, and made available for expenditure under the direct control of the State transportation department.

[(27)] *(28)* STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term "State strategic highway safety plan" has the same meaning given such term in section 148(a).

[(28)] *(29)* STATE TRANSPORTATION DEPARTMENT.—The term "State transportation department" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

[(29) TRANSPORTATION ALTERNATIVES.—The term "transportation alternatives" means any of the following activities when carried out as part of any program or project authorized or funded under this title, or as an independent program or project related to surface transportation:

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

[(B) Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities to access daily needs.

[(C) Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users.

[(D) Construction of turnouts, overlooks, and viewing areas.

[(E) Community improvement activities, including—

[(i) inventory, control, or removal of outdoor advertising;

[(ii) historic preservation and rehabilitation of historic transportation facilities;

[(iii) vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control; and

[(iv) archaeological activities relating to impacts from implementation of a transportation project eligible under this title.

[(F) Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to—

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

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

(30) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

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

(B) INCLUSIONS.—The term "transportation systems management and operations" includes—

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

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

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

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

(33) URBAN AREA.—The term "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall en-

compass, at a minimum, the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

(34) URBANIZED AREA.—The term "urbanized area" means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.

(b) DECLARATION OF POLICY.—

(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is in the national interest to accelerate the construction of Federal-aid highway systems, including the Dwight D. Eisenhower National System of Interstate and Defense, because many of the highways (or portions of the highways) are inadequate to meet the needs of local and interstate commerce for the national and civil defense.

(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares that the prompt and early completion of the Dwight D. Eisenhower National System of Interstate and Defense Highways (referred to in this section as the "Interstate System"), so named because of its primary importance to the national defense, is essential to the national interest. It is the intent of Congress that the Interstate System be completed as nearly as practicable over the period of availability of the forty years' appropriations authorized for the purpose of expediting its construction, reconstruction, or improvement, inclusive of necessary tunnels and bridges, through the fiscal year ending September 30, 1996, under section 108(b) of the Federal-Aid Highway Act of 1956 (70 Stat. 374), and that the entire system in all States be brought to simultaneous completion. Insofar as possible in consonance with this objective, existing highways located on an interstate route shall be used to the extent that such use is practicable, suitable, and feasible, it being the intent that local needs, to the extent practicable, suitable, and feasible, shall be given equal consideration with the needs of interstate commerce.

(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to continue to change;

(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

(ii) flow of interstate and international commerce and freight transportation; and

(iii) travel movements essential for national security;

(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

(F) the connection between land use and infrastructure is significant;

(G) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

(H) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.

(4) EXPEDITED PROJECT DELIVERY.—

(A) IN GENERAL.—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.

(B) POLICY OF THE UNITED STATES.—Accordingly, it is the policy of the United States that—

(i) the Secretary shall have the lead role among Federal agencies in carrying out the environmental review process for surface transportation projects;

(ii) each Federal agency shall cooperate with the Secretary to expedite the environmental review process for surface transportation projects;

(iii) project sponsors shall not be prohibited from carrying out preconstruction project development activities concurrently with the environmental review process;

(iv) programmatic approaches shall be used to reduce the need for project-by-project reviews and decisions by Federal agencies; and

(v) the Secretary shall identify opportunities for project sponsors to assume responsibilities of the Secretary where such responsibilities can be assumed in a manner that protects public health, the environment, and public participation.

(c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid highway which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be

available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund.

(d) No funds authorized to be appropriated from the Highway Trust Fund shall be expended by or on behalf of any Federal department, agency, or instrumentality other than the Federal Highway Administration unless funds for such expenditure are identified and included as a line item in an appropriation Act and are to meet obligations of the United States heretofore or hereafter incurred under this title attributable to the construction of Federal-aid highways or highway planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation.

(e) It is the national policy that to the maximum extent possible the procedures to be utilized by the Secretary and all other affected heads of Federal departments, agencies, and instrumentalities for carrying out this title and any other provision of law relating to the Federal highway programs shall encourage the substantial minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so as to prevent needless duplication and unnecessary delays at all levels of government.

* * * * * * *

§ 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) $454,180,326 for fiscal year 2013; and

[(B) $440,000,000 for fiscal year 2014.]

(1) IN GENERAL.—There is 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 $440,000,000 for each of fiscal years 2016 through 2021.

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

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

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

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

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

(b) [DIVISION OF STATE APPORTIONMENTS AMONG PROGRAMS] *DIVISION AMONG PROGRAMS OF STATE'S SHARE OF BASE APPORTIONMENT.*—The Secretary shall distribute the amount *of the base apportionment* apportioned to a State for a fiscal year under subsection (c) among the national highway performance program, the

[surface transportation program] *surface transportation block grant program*, the highway safety improvement program, and the congestion mitigation and air quality improvement program, and to carry out section 134 as follows:

(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance program, 63.7 percent of the amount remaining after distributing amounts under paragraphs (4) and (5).

(2) [SURFACE TRANSPORTATION PROGRAM] *SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.*— For the [surface transportation program] *surface transportation block grant program*, 29.3 percent of the amount remaining after distributing amounts under paragraphs (4) and (5).

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, 7 percent of the amount remaining after distributing amounts under paragraphs (4) and (5).

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

(A) the amount apportioned to the State for the congestion mitigation and air quality improvement program for fiscal year 2009; bears to

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

(5) METROPOLITAN PLANNING.—To carry out section 134, an amount determined by multiplying the amount *of the base apportionment* determined for the State under subsection (c) by the proportion that—

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

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

[(c) CALCULATION OF STATE AMOUNTS.—

[(1) FOR FISCAL YEAR 2013.—

[(A) CALCULATION OF AMOUNT.—For fiscal year 2013, the amount for each State of combined apportionments for the national highway performance program under section 119, the surface transportation program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 shall be equal to the combined amount of apportionments that the State received for fiscal year 2012.

[(B) STATE APPORTIONMENT.—On October 1 of such fiscal year, the Secretary shall apportion the sum authorized to be appropriated for expenditure on the national high-

way performance program under section 119, the surface transportation program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 in accordance with subparagraph (A).

[(2) FOR FISCAL YEAR 2014.—

[(A) STATE SHARE.—For fiscal year 2014, the amount for each State of combined apportionments for the national highway performance program under section 119, the surface transportation program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 shall be determined as follows:

[(i) INITIAL AMOUNT.—The initial amount for each State shall be determined by multiplying the total amount available for apportionment by the share for each State which shall be equal to the proportion that—

[(I) the amount of apportionments that the State received for fiscal year 2012; bears to

[(II) the amount of those apportionments received by all States for that fiscal year.

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

[(B) STATE APPORTIONMENT.—On October 1 of such fiscal year, the Secretary shall apportion the sum authorized to be appropriated for expenditure on the national highway performance program under section 119, the surface transportation program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 in accordance with subparagraph (A).]

(c) CALCULATION OF AMOUNTS.—

(1) STATE SHARE.—For each of fiscal years 2016 through 2021, the amount for each State shall be determined as follows:

(A) INITIAL AMOUNTS.—The initial amounts for each State shall be determined by multiplying—

(i) each of—

(I) the base apportionment;

(II) supplemental funds reserved under subsection (h)(1) for the national highway performance program; and

(III) supplemental funds reserved under subsection (h)(2) for the surface transportation block grant program; by

(ii) the share for each State, which shall be equal to the proportion that—

(I) the amount of apportionments that the State received for fiscal year 2015; bears to

(II) the amount of those apportionments received by all States for that fiscal year.

(B) ADJUSTMENTS TO AMOUNTS.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that each State receives an aggregate apportionment equal to at least 95 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

(2) STATE APPORTIONMENT.—On October 1 of fiscal years 2016 through 2021, the Secretary shall apportion the sums authorized to be appropriated for expenditure on the national highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 in accordance with paragraph (1).

(d) METROPOLITAN PLANNING.—

(1) USE OF AMOUNTS.—

(A) USE.—

(i) IN GENERAL.—Except as provided in clause (ii), the amounts apportioned to a State under subsection (b)(5) shall be made available by the State to the metropolitan planning organizations responsible for carrying out section 134 in the State.

(ii) STATES RECEIVING MINIMUM APPORTIONMENT.—A State that received the minimum apportionment for use in carrying out section 134 for fiscal year 2009 may, subject to the approval of the Secretary, use the funds apportioned under subsection (b)(5) to fund transportation planning outside of urbanized areas.

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

(2) DISTRIBUTION OF AMOUNTS WITHIN STATES.—

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

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

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

(B) REIMBURSEMENT.—Not later than 15 business days after the date of receipt by a State of a request for reim-

bursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from amounts distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

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

(e) CERTIFICATION OF APPORTIONMENTS.—

(1) IN GENERAL.—The Secretary shall—

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

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

(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under this section for a fiscal year beginning after September 30, 1998, by not later than the date that is the twenty-first day of that fiscal year, the Secretary shall submit, by not later than that date, to the Committee on 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 the apportionment in a timely manner.

(3) APPORTIONMENT CALCULATIONS.—

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

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

(f) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

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

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

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

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

(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for highway projects or transportation

planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

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

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

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

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

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

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

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

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

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

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

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

[(A) program;

[(B) funding category of subcategory;

[(C) type of improvement;

[(D) State; and

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

(g) HIGHWAY TRUST FUND TRANSPARENCY AND ACCOUNTABILITY REPORTS.—

(1) COMPILATION OF DATA.—The Secretary shall compile data in accordance with this subsection on the use of Federal-aid highway funds made available under this title.

(2) REQUIREMENTS.—The Secretary shall ensure that the reports required under this subsection are made available in a user-friendly manner on the public Internet Web site of the Department and can be searched and downloaded by users of the Web site.

(3) CONTENTS OF REPORTS.—

(A) APPORTIONED AND ALLOCATED PROGRAMS.—On a semiannual basis, the Secretary shall make available a report on funding apportioned and allocated to the States under this title that describes—

(i) the amount of funding obligated by each State, year-to-date, for the current fiscal year;

(ii) the amount of funds remaining available for obligation by each State;

(iii) changes in the obligated, unexpended balance for each State, year-to-date, during the current fiscal year, including the obligated, unexpended balance at the end of the preceding fiscal year and current fiscal year expenditures;

(iv) the amount and program category of unobligated funding, year-to-date, available for expenditure at the discretion of the Secretary;

(v) the rates of obligation on and off the National Highway System, year-to-date, for the current fiscal year of funds apportioned, allocated, or set aside under this section, according to—

(I) program;

(II) funding category or subcategory;

(III) type of improvement;

(IV) State; and

(V) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area; and

(vi) the amount of funds transferred by each State, year-to-date, for the current fiscal year between programs under section 126.

(B) PROJECT DATA.—On an annual basis, the Secretary shall make available a report that, to the maximum extent possible, provides project-specific data describing—

(i) for all projects funded under this title (excluding projects for which funds are transferred to agencies other than the Federal Highway Administration)—

(I) the specific location of the project;

(II) the total cost of the project;

(III) the amount of Federal funding obligated for the project;

(IV) the program or programs from which Federal funds have been obligated for the project;

(V) the type of improvement being made; and

(VI) the ownership of the highway or bridge; and

(ii) for any project funded under this title (excluding projects for which funds are transferred to agencies

other than the Federal Highway Administration) with an estimated total cost as of the start of construction in excess of $100,000,000, the data specified under clause (i) and additional data describing—

(I) whether the project is located in an area of the State with a population of—

(aa) less than 5,000 individuals;

(bb) 5,000 or more individuals but less than 50,000 individuals;

(cc) 50,000 or more individuals but less than 200,000 individuals; or

(dd) 200,000 or more individuals;

(II) the estimated cost of the project as of the start of project construction, or the revised cost estimate based on a description of revisions to the scope of work or other factors affecting project cost other than cost overruns; and

(III) the amount of non-Federal funds obligated for the project.

(h) SUPPLEMENTAL FUNDS.—

(1) SUPPLEMENTAL FUNDS FOR NATIONAL HIGHWAY PERFORMANCE PROGRAM.—

(A) AMOUNT.—Before making an apportionment for a fiscal year under subsection (c), the Secretary shall reserve for the national highway performance program under section 119 for that fiscal year an amount equal to—

(i) $53,596,122 for fiscal year 2019;

(ii) $66,717,816 for fiscal year 2020; and

(iii) $79,847,397 for fiscal year 2021.

(B) TREATMENT OF FUNDS.—Funds reserved under subparagraph (A) and apportioned to a State under subsection (c) shall be treated as if apportioned under subsection (b)(1), and shall be in addition to amounts apportioned under that subsection.

(2) SUPPLEMENTAL FUNDS FOR SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.—

(A) AMOUNT.—Before making an apportionment for a fiscal year under subsection (c), the Secretary shall reserve for the surface transportation block grant program under section 133 for that fiscal year an amount equal to $819,900,000 pursuant to section 133(h), plus—

(i) $70,526,310 for fiscal year 2016;

(ii) $104,389,904 for fiscal year 2017;

(iii) $148,113,536 for fiscal year 2018;

(iv) $160,788,367 for fiscal year 2019;

(v) $200,153,448 for fiscal year 2020; and

(vi) $239,542,191 for fiscal year 2021.

(B) TREATMENT OF FUNDS.—Funds reserved under subparagraph (A) and apportioned to a State under subsection (c) shall be treated as if apportioned under subsection (b)(2), and shall be in addition to amounts apportioned under that subsection.

(i) BASE APPORTIONMENT DEFINED.—In this section, the term "base apportionment" means—

(1) the combined amount authorized for appropriation for the national highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134; minus

(2) supplemental funds reserved under subsection (h) for the national highway performance program and the surface transportation block grant program.

§ 105. Adjustments to contract authority

(a) CALCULATION.—

(1) IN GENERAL.—The President shall include in each of the fiscal year 2017 through 2021 budget submissions to Congress under section 1105(a) of title 31, for each of the Highway Account and the Mass Transit Account, a calculation of the difference between—

(A) the actual level of monies deposited in that account for the most recently completed fiscal year; and

(B) the estimated level of receipts for that account for the most recently completed fiscal year, as specified in paragraph (2).

(2) ESTIMATE.—The estimated level of receipts specified in this paragraph are—

(A) for the Highway Account—

(i) for fiscal year 2015, $35,067,000,000;

(ii) for fiscal year 2016, $35,498,000,000;

(iii) for fiscal year 2017, $35,879,000,000;

(iv) for fiscal year 2018, $36,084,000,000; and

(v) for fiscal year 2019, $36,117,000,000; and

(B) for the Mass Transit Account—

(i) for fiscal year 2015, $4,994,000,000;

(ii) for fiscal year 2016, $5,020,000,000;

(iii) for fiscal year 2017, $5,024,000,000;

(iv) for fiscal year 2018, $5,011,000,000; and

(v) for fiscal year 2019, $4,981,000,000.

(b) ADJUSTMENTS TO CONTRACT AUTHORITY.—

(1) ADDITIONAL AMOUNTS.—If the difference determined in a budget submission under subsection (a) for a fiscal year for the Highway Account or the Mass Transit Account is greater than zero, the Secretary shall on October 1 of the budget year of that submission—

(A) make available for programs authorized from such account for the budget year a total amount equal to—

(i) the amount otherwise authorized to be appropriated for such programs for such budget year; plus

(ii) an amount equal to such difference; and

(B) distribute the additional amount under subparagraph (A)(ii) to each of such programs in accordance with subsection (c).

(2) REDUCTION.—If the difference determined in a budget submission under subsection (a) for a fiscal year for the Highway Account or the Mass Transit Account is less than zero, the Secretary shall on October 1 of the budget year of that submission—

(A) make available for programs authorized from such account for the budget year a total amount equal to—

(i) the amount otherwise authorized to be appropriated for such programs for such budget year; minus

(ii) an amount equal to such difference; and

(B) apply the total adjustment under subparagraph (A)(ii) to each of such programs in accordance with subsection (c).

(c) DISTRIBUTION OF ADJUSTMENT AMONG PROGRAMS.—

(1) IN GENERAL.—In making an adjustment for the Highway Account or the Mass Transit Account for a budget year under subsection (b), the Secretary shall—

(A) determine the ratio that—

(i) the amount authorized to be appropriated for a program from the account for the budget year; bears to

(ii) the total amount authorized to be appropriated for such budget year for all programs under such account;

(B) multiply the ratio determined under subparagraph (A) by the applicable difference calculated under subsection (a); and

(C) adjust the amount that the Secretary would otherwise have allocated for the program for such budget year by the amount calculated under subparagraph (B).

(2) FORMULA PROGRAMS.—For a program for which funds are distributed by formula, the Secretary shall add or subtract the adjustment to the amount authorized for the program but for this section and make available the adjusted program amount for such program in accordance with such formula.

(3) AVAILABILITY FOR OBLIGATION.—Adjusted amounts under this subsection shall be available for obligation and administered in the same manner as other amounts made available for the program for which the amount is adjusted.

(d) EXCLUSION OF EMERGENCY RELIEF PROGRAM AND COVERED ADMINISTRATIVE EXPENSES.—The Secretary shall exclude the emergency relief program under section 125 and covered administrative expenses from—

(1) an adjustment of funding under subsection (c)(1); and

(2) any calculation under subsection (b) or (c) related to such an adjustment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the appropriate account or accounts of the Highway Trust Fund an amount equal to the amounts calculated under subsection (a) for each of fiscal years 2017 through 2021.

(f) REVISION TO OBLIGATION LIMITATIONS.—

(1) IN GENERAL.—If the Secretary makes an adjustment under subsection (b) for a fiscal year to an amount subject to a limitation on obligations imposed by section 1102 or 3017 of the Surface Transportation Reauthorization and Reform Act of 2015—

(A) such limitation on obligations for such fiscal year shall be revised by an amount equal to such adjustment; and

(B) the Secretary shall distribute such limitation on obligations, as revised under subparagraph (A), in accordance with such sections.

(2) EXCLUSION OF COVERED ADMINISTRATIVE EXPENSES.—The Secretary shall exclude covered administrative expenses from—

(A) any calculation relating to a revision of a limitation on obligations under paragraph (1)(A); and

(B) any distribution of a revised limitation on obligations under paragraph (1)(B).

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

(1) BUDGET YEAR.—The term "budget year" means the fiscal year for which a budget submission referenced in subsection (a)(1) is submitted.

(2) COVERED ADMINISTRATIVE EXPENSES.—The term "covered administrative expenses" means the administrative expenses of—

(A) the Federal Highway Administration, as authorized under section 104(a);

(B) the National Highway Traffic Safety Administration, as authorized under section 4001(a)(6) of the Surface Transportation Reauthorization and Reform Act of 2015; and

(C) the Federal Motor Carrier Safety Administration, as authorized under section 31110 of title 49.

(3) HIGHWAY ACCOUNT.—The term "Highway Account" means the portion of the Highway Trust Fund that is not the Mass Transit Account.

(4) MASS TRANSIT ACCOUNT.—The term "Mass Transit Account" means the Mass Transit Account of the Highway Trust Fund established under section 9503(e)(1) of the Internal Revenue Code of 1986.

§ 106. Project approval and oversight

(a) IN GENERAL.—

(1) SUBMISSION OF PLANS, SPECIFICATIONS, AND ESTIMATES.—Except as otherwise provided in this section, each State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

(2) PROJECT AGREEMENT.—The Secretary shall act on the plans, specifications, and estimates as soon as practicable after the date of their submission and shall enter into a formal project agreement with the State transportation department recipient formalizing the conditions of the project approval.

(3) CONTRACTUAL OBLIGATION.—The execution of the project agreement shall be deemed a contractual obligation of the Federal Government for the payment of the Federal share of the cost of the project.

(4) GUIDANCE.—In taking action under this subsection, the Secretary shall be guided by section 109.

(b) PROJECT AGREEMENT.—

(1) PROVISION OF STATE FUNDS.—The project agreement shall make provision for State funds required to pay the State's non-Federal share of the cost of construction of the project *(including payments made pursuant to a long-term concession agreement, such as availability payments)* and to pay for maintenance of the project after completion of construction.

(2) REPRESENTATIONS OF STATE.—If a part of the project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State, the Secretary may rely on representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials for ensuring that the non-Federal contribution will be provided under paragraph (1).

(c) ASSUMPTION BY STATES OF RESPONSIBILITIES OF THE SECRETARY.—

(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 responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections with respect to the projects unless the Secretary determines that the assumption is not appropriate.

(2) NON-NHS PROJECTS.—For projects under this title that are not on the National Highway System, the State shall assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspection of projects, unless the State determines that such assumption is not appropriate.

(3) AGREEMENT.—The Secretary and the State shall enter into an agreement relating to the extent to which the State assumes the responsibilities of the Secretary under this subsection.

(4) LIMITATION ON INTERSTATE PROJECTS.—

(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a high risk category, as defined under subparagraph (B).

(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.

(d) RESPONSIBILITIES OF THE SECRETARY.—Nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under—

(1) section 113 or 114; or

(2) any Federal law other than this title (including section 5333 of title 49).

(e) VALUE ENGINEERING ANALYSIS.—

(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

(A) IN GENERAL.—In this subsection, the term "value engineering analysis" means a systematic process of review and analysis of a project, during the planning and design phases, by a multidisciplinary team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

(i) providing the needed functions safely, reliably, and at the lowest overall lifecycle cost;

(ii) improving the value and quality of the project; and

(iii) reducing the time to complete the project.

(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

(2) ANALYSIS.—The State shall provide a value engineering analysis for—

(A) each project on the National Highway System receiving Federal assistance with an estimated total cost of $50,000,000 or more;

(B) a bridge project on the National Highway System receiving Federal assistance with an estimated total cost of $40,000,000 or more; and

(C) any other project the Secretary determines to be appropriate.

(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

(4) REQUIREMENTS.—

(A) VALUE ENGINEERING PROGRAM.—The State shall develop and carry out a value engineering program that—

(i) establishes and documents value engineering program policies and procedures;

(ii) ensures that the required value engineering analysis is conducted before completing the final design of a project;

(iii) ensures that the value engineering analysis that is conducted, and the recommendations developed and implemented for each project, are documented in a final value engineering report; and

(iv) monitors, evaluates, and annually submits to the Secretary a report that describes the results of the value analyses that are conducted and the recommendations implemented for each of the projects described in paragraph (2) that are completed in the State.

(B) BRIDGE PROJECTS.—The value engineering analysis for a bridge project under paragraph (2) shall—

(i) include bridge superstructure and substructure requirements based on construction material; and

(ii) be evaluated by the State—

(I) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

(II) using an analysis of lifecycle costs and duration of project construction.

(5) DESIGN-BUILD PROJECTS.—A requirement to provide a value engineering analysis under this subsection shall not

apply to a project delivered using the design-build method of construction.

(f) LIFE-CYCLE COST ANALYSIS.—

(1) USE OF LIFE-CYCLE COST ANALYSIS.—The Secretary shall develop recommendations for the States to conduct life-cycle cost analyses. The recommendations shall be based on the principles contained in section 2 of Executive Order No. 12893 and shall be developed in consultation with the American Association of State Highway and Transportation Officials. The Secretary shall not require a State to conduct a life-cycle cost analysis for any project as a result of the recommendations required under this subsection.

(2) LIFE-CYCLE COST ANALYSIS DEFINED.—In this subsection, the term "life-cycle cost analysis" means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user costs, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

(g) OVERSIGHT PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title.

(B) MINIMUM REQUIREMENT.—At a minimum, the program shall be responsive to all areas relating to financial integrity and project delivery.

(2) FINANCIAL INTEGRITY.—

(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).

(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the practices of States for estimating project costs, awarding contracts, and reducing project costs.

(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the project delivery system of a State, which elements include one or more activities that are involved in the life cycle of a project from conception to completion of the project.

(4) RESPONSIBILITY OF THE STATES.—

(A) IN GENERAL.—The States shall be responsible for determining that subrecipients of Federal funds under this title have—

(i) adequate project delivery systems for projects approved under this section; and

(ii) sufficient accounting controls to properly manage such Federal funds.

(B) PERIODIC REVIEW.—The Secretary shall periodically review the monitoring of subrecipients by the States.

(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—

(A) EFFECT OF SECTION.—Nothing in this section shall affect or discharge any oversight responsibility of the Sec-

retary specifically provided for under this title or other Federal law.

(B) APPALACHIAN DEVELOPMENT HIGHWAYS.—The Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40.

(h) MAJOR PROJECTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $500,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

(A) a project management plan; and

(B) an annual financial plan, including a phasing plan when applicable.

(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

(B) the role of the agency leadership and management team in the delivery of the project.

(3) FINANCIAL PLAN.—A financial plan—

(A) shall be based on detailed estimates of the cost to complete the project;

(B) shall provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project;

(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135; and

(D) shall assess the appropriateness of a public-private partnership to deliver the project.

(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of $100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the request of the Secretary.

(j) USE OF ADVANCED MODELING TECHNOLOGIES.—

(1) DEFINITION OF ADVANCED MODELING TECHNOLOGY.—In this subsection, the term "advanced modeling technology" means an available or developing technology, including 3-dimensional digital modeling, that can—

(A) accelerate and improve the environmental review process;

(B) increase effective public participation;

(C) enhance the detail and accuracy of project designs;

(D) increase safety;

(E) accelerate construction, and reduce construction costs; or

(F) otherwise expedite project delivery with respect to transportation projects that receive Federal funding.

(2) PROGRAM.—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 of the projects.

(3) ACTIVITIES.—In carrying out paragraph (2), 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.

(4) COMPREHENSIVE PLAN.—The Secretary shall develop and publish on the public website of the Department of Transportation a detailed and comprehensive plan for the implementation of paragraph (2).

* * * * * * *

§ 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 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 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 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 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) 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.

(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 real property interests, acquired in advance of any Federal approval or authorization, if the real property interests are subsequently incorporated into a project eligible for [surface transportation program] *surface transportation block grant program* funds; and

(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

(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 real property interests acquired are incorporated into a project eligible for [surface transportation program] *surface transportation block grant program* funds, if the State demonstrates to the Secretary and the Secretary finds that—

(A) any land acquired, and relocation assistance provided, complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) the requirements of title VI of the Civil Rights Act of 1964 have been complied with;

(C) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and the acquisition is certified by the Governor as consistent with the State plans before the acquisition;

(D) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this title;

(E) the alternative for which the 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 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, 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) DEFINITION OF ACQUISITION OF A REAL PROPERTY INTEREST.—In this subsection, the term "acquisition of a real property interest" includes the acquisition of—

(A) any interest in land;

(B) a contractual right to acquire any interest in land; or

(C) any other similar action to acquire or preserve rights-of-way for a transportation facility.

(2) AUTHORIZATION.—The Secretary may authorize the use of funds apportioned to a State under this title for the acquisition of a real property interest by a State.

(3) STATE CERTIFICATION.—A State requesting Federal funding for an acquisition of a real property interest shall certify in writing, with concurrence by the Secretary, that—

(A) the State has authority to acquire the real property interest under State law; and

(B) the acquisition of the real property interest—

(i) is for a transportation purpose;

(ii) will not cause any significant adverse environmental impact;

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

(iv) does not prevent the lead agency from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process;

(v) is consistent with the State transportation planning process under section 135;

(vi) complies with other applicable Federal laws (including regulations);

(vii) will be acquired through negotiation, without the threat of condemnation; and

(viii) will not result in a reduction or elimination of benefits or assistance to a displaced person required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(4) ENVIRONMENTAL COMPLIANCE.—

(A) IN GENERAL.—Before authorizing Federal funding for an acquisition of a real property interest, the Secretary shall complete the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the acquisition of the real property interest.

(B) INDEPENDENT UTILITY.—The acquisition of a real property interest—

(i) shall be treated as having independent utility for purposes of the review process under the National En-

vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) shall not limit consideration of alternatives for future transportation improvements with respect to the real property interest.

(5) PROGRAMMING.—

(A) IN GENERAL.—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 134 and 135 and sections 5303 and 5304 of title 49.

(B) ACQUISITION PROJECT.—The acquisition project may consist of the acquisition of a specific parcel, a portion of a transportation corridor, or an entire transportation corridor.

(6) DEVELOPMENT.—Real property interests acquired under this subsection may not be developed in anticipation of a project until all required environmental reviews for the project have been completed.

(7) REIMBURSEMENT.—If Federal-aid reimbursement is made for real property interests acquired early under this section and the real property interests are not subsequently incorporated into a project eligible for surface transportation funds within the time allowed by subsection (a)(2), the Secretary shall offset the amount reimbursed against funds apportioned to the State.

(8) OTHER REQUIREMENTS AND CONDITIONS.—

(A) APPLICABLE LAW.—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.

(B) ADDITIONAL CONDITIONS.—The Secretary may establish such other conditions or restrictions on acquisitions under this subsection as the Secretary determines to be appropriate.

§ 109. Standards

(a) IN GENERAL.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State transportation departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all

cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) DESIGN CRITERIA FOR NATIONAL HIGHWAY SYSTEM.—

(1) IN GENERAL.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) [may take into account] *shall consider*, in addition to the criteria described in subsection (a)—

(A) the constructed and natural environment of the area;

(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; [and]

(C) cost savings by utilizing flexibility that exists in current design guidance and regulations; and

[(C)] *(D)* access for other modes of transportation.

(2) DEVELOPMENT OF CRITERIA.—The Secretary, in cooperation with State transportation departments, may develop criteria to implement paragraph (1). In developing criteria under this paragraph, the Secretary shall consider—

(A) the results of the committee process of the American Association of State Highway and Transportation Officials as used in adopting and publishing "A Policy on Geometric Design of Highways and Streets", including comments submitted by interested parties as part of such process;

(B) the publication entitled "Flexibility in Highway Design" of the Federal Highway Administration;

(C) "Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design" developed by the conference held during 1998 entitled "Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance"; [and]

(D) the publication entitled "Highway Safety Manual" of the American Association of State Highway and Transportation Officials;

(E) the publication entitled "Urban Street Design Guide" of the National Association of City Transportation Officials; and

[(D)] *(F)* any other material that the Secretary determines to be appropriate.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State transportation department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) INSTALLATION OF SAFETY DEVICES.—

(1) HIGHWAY AND RAILROAD GRADE CROSSINGS AND DRAWBRIDGES.—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

(2) TEMPORARY TRAFFIC CONTROL DEVICES.—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2, unless proper temporary traffic control devices to improve safety in work zones will be installed and maintained during construction, utility, and maintenance operations on that portion of the highway with respect to which such expenditures are to be made. Installation and maintenance of the devices shall be in accordance with the Manual on Uniform Traffic Control Devices.

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, bikeways, *pedestrian walkways,* gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

(g) Not later than January 30, 1971, the Secretary shall issue guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

(1) air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects, and tax and property value losses;

(4) injurious displacement of people, businesses and farms; and

(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards. The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for—

(1) the implementation of a national ambient air quality standard for each pollutant for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).

(k) The Secretary shall not approve any project involving approaches to a bridge under this title, if such project and bridge will significantly affect the traffic volume and the highway system of a contiguous State without first taking into full consideration the views of that State.

(l)(1) In determining whether any right-of-way on any Federal-aid highway should be used for accommodating any utility facility, the Secretary shall—

(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect safety;

(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

(C) consider such environmental and economic effects together with any interference with or impairment of the use of

the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

(2) For the purpose of this subsection—

(A) the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

(B) the term "right-of-way" means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.

(m) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.

(n) It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway access to which is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.

(o) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

(p) SCENIC AND HISTORIC VALUES.—Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to—

(1) allow for the preservation of environmental, scenic, or historic values;

(2) ensure safe use of the facility; and

(3) comply with subsection (a).

(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction consistent with the operative safety management system established in accordance with a statewide transportation improvement program approved by the Secretary.

(r) PAVEMENT MARKINGS.—The Secretary shall not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead, as determined in accordance with Environmental Protection Agency testing methods 3052, 6010B, or 6010C.

* * * * * * *

§ 117. Nationally significant freight and highway projects

(a) ESTABLISHMENT.—There is established a nationally significant freight and highway projects program to provide financial assistance for projects of national or regional significance that will—

(1) improve the safety, efficiency, and reliability of the movement of freight and people;

(2) generate national or regional economic benefits and an increase in the global economic competitiveness of the United States;

(3) reduce highway congestion and bottlenecks;

(4) improve connectivity between modes of freight transportation; or

(5) enhance the strength, durability, and serviceability of critical highway infrastructure.

(b) GRANT AUTHORITY.—In carrying out the program established in subsection (a), the Secretary may make grants, on a competitive basis, in accordance with this section.

(c) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—The Secretary may make a grant under this section to the following:

(A) A State or group of States.

(B) A metropolitan planning organization that serves an urbanized area (as defined by the Bureau of the Census) with a population of more than 200,000 individuals.

(C) A unit of local government.

(D) A special purpose district or public authority with a transportation function, including a port authority.

(E) A Federal land management agency that applies jointly with a State or group of States.

(2) APPLICATIONS.—To be eligible for a grant under this section, an entity specified in paragraph (1) shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary determines is appropriate.

(d) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Except as provided in subsection (h), the Secretary may make a grant under this section only for a project that—

(A) is—

(i) a freight project carried out on the National Highway Freight Network established under section 167 of this title;

(ii) a highway or bridge project carried out on the National Highway System;

(iii) an intermodal or rail freight project carried out on the National Multimodal Freight Network established under section 70103 of title 49; or

(iv) a railway-highway grade crossing or grade separation project; and

(B) has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) in the case of a project—

(I) located in 1 State, 30 percent of the amount apportioned under this chapter to the State in the most recently completed fiscal year; or

(II) located in more than 1 State, 50 percent of the amount apportioned under this chapter to the participating State with the largest apportionment

under this chapter in the most recently completed fiscal year.

(2) LIMITATION.—

(A) IN GENERAL.—Not more than $500,000,000 of the amounts made available for grants under this section for fiscal years 2016 through 2021, in the aggregate, may be used to make grants for projects described in paragraph (1)(A)(iii) and such a project may only receive a grant under this section if—

(i) the project will make a significant improvement to freight movements on the National Highway Freight Network; and

(ii) the Federal share of the project funds only elements of the project that provide public benefits.

(B) EXCLUSIONS.—The limitation under subparagraph (A) shall—

(i) not apply to a railway-highway grade crossing or grade separation project; and

(ii) with respect to a multimodal project, shall apply only to the non-highway portion or portions of the project.

(e) ELIGIBLE PROJECT COSTS.—Grant amounts received for a project under this section may be used for—

(1) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

(2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

(f) PROJECT REQUIREMENTS.—The Secretary may make a grant for a project described under subsection (d) only if the relevant applicant demonstrates that—

(1) the project will generate national or regional economic, mobility, or safety benefits;

(2) the project will be cost effective;

(3) the project will contribute to the accomplishment of 1 or more of the national goals described under section 150 of this title;

(4) the project is based on the results of preliminary engineering;

(5) with respect to related non-Federal financial commitments—

(A) 1 or more stable and dependable sources of funding and financing are available to construct, maintain, and operate the project; and

(B) contingency amounts are available to cover unanticipated cost increases;

(6) the project cannot be easily addressed using other funding available to the project sponsor under this chapter; and

(7) the project is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.

(g) ADDITIONAL CONSIDERATIONS.—In making a grant under this section, the Secretary shall consider—

(1) the extent to which a project utilizes nontraditional financing, innovative design and construction techniques, or innovative technologies;

(2) the amount and source of non-Federal contributions with respect to the proposed project; and

(3) the need for geographic diversity among grant recipients, including the need for a balance between the needs of rural and urban communities.

(h) RESERVED AMOUNTS.—

(1) IN GENERAL.—The Secretary shall reserve not less than 10 percent of the amounts made available for grants under this section each fiscal year to make grants for projects described in subsection (d)(1)(A)(i) that do not satisfy the minimum threshold under subsection (d)(1)(B).

(2) GRANT AMOUNT.—Each grant made under this subsection shall be in an amount that is at least $5,000,000.

(3) PROJECT SELECTION CONSIDERATIONS.—In addition to other applicable requirements, in making grants under this subsection the Secretary shall consider—

(A) the cost effectiveness of the proposed project; and

(B) the effect of the proposed project on mobility in the State and region in which the project is carried out.

(4) EXCESS FUNDING.—In any fiscal year in which qualified applications for grants under this subsection will not allow for the amount reserved under paragraph (1) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under this section.

(5) RURAL AREAS.—The Secretary shall reserve not less than 20 percent of the amounts made available for grants under this section, including the amounts made available under paragraph (1), each fiscal year to make grants for projects located in rural areas.

(i) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of a project assisted with a grant under this section may not exceed 50 percent.

(2) NON-FEDERAL SHARE.—Funds apportioned to a State under section 104(b)(1) or 104(b)(2) may be used to satisfy the non-Federal share of the cost of a project for which a grant is made under this section so long as the total amount of Federal funding for the project does not exceed 80 percent of project costs.

(j) AGREEMENTS TO COMBINE AMOUNTS.—Two or more entities specified in subsection (c)(1) may combine, pursuant to an agreement entered into by the entities, any part of the amounts provided to the entities from grants under this section for a project for which the relevant grants were made if—

(1) the agreement will benefit each entity entering into the agreement; and

(2) the agreement is not in violation of a law of any such entity.

(k) TREATMENT OF FREIGHT PROJECTS.—Notwithstanding any other provision of law, a freight project carried out under this sec-

tion shall be treated as if the project is located on a Federal-aid highway.

(l) TIFIA PROGRAM.—At the request of an eligible applicant under this section, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to provide the entity Federal credit assistance under chapter 6 with respect to the project for which the grant was awarded.

(m) CONGRESSIONAL NOTIFICATION.—

(1) NOTIFICATION.—At least 60 days before making a grant for a project under this section, 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 grant. The notification shall include an evaluation and justification for the project and the amount of the proposed grant award.

(2) CONGRESSIONAL DISAPPROVAL.—The Secretary may not make a grant or any other obligation or commitment to fund a project under this section if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in paragraph (1).

* * * * * * *

§ 119. National highway performance program

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

(b) PURPOSES.—The purposes of the national highway performance program shall be—

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

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

(3) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in an asset management plan of a State for the National Highway System.

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

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

(1)(A) a project or part of a program of projects supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, mobility, or freight movement on the National Highway System; and

(B) consistent with sections 134 and 135; and

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

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

(B) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures,

and protection against extreme events) of bridges on the National Highway System.

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

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

(E) Training of bridge and tunnel inspectors, as described in section 144.

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

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

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

(ii) the construction or improvements will reduce delays or produce travel time savings on the fully access- controlled highway described in clause (i) and improve regional traffic flow; and

(iii) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the fully access-controlled highway described in clause (i).

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

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

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

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

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

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

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

(O) Environmental mitigation efforts related to projects funded under this section, as described in subsection (g).

(P) Construction of publicly owned intracity or intercity bus terminals servicing the National Highway System.

(e) STATE PERFORMANCE MANAGEMENT.—

(1) IN GENERAL.—A State shall develop a risk-based asset management plan for the National Highway System to improve or preserve the condition of the assets and the performance of the system.

(2) PERFORMANCE DRIVEN PLAN.—A State asset management plan shall include strategies leading to a program of projects that would make progress toward achievement of the State targets for asset condition and performance of the National Highway System in accordance with section 150(d) and supporting the progress toward the achievement of the national goals identified in section 150(b).

(3) SCOPE.—In developing a risk-based asset management plan, the Secretary shall encourage States to include all infrastructure assets within the right-of-way corridor in such plan.

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

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

(B) asset management objectives and measures;

(C) performance gap identification;

(D) lifecycle cost and risk management analysis;

(E) a financial plan; and

(F) investment strategies.

(5) REQUIREMENT FOR PLAN.—Notwithstanding section 120, with respect to the second fiscal year beginning after the date of establishment of the process established in paragraph (8) or any subsequent fiscal year, if the Secretary determines that a State has not developed and implemented a State asset management plan 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 this section shall be 65 percent.

(6) CERTIFICATION OF PLAN DEVELOPMENT PROCESS.—

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

(i) review the process; and

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

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

(B) RECERTIFICATION.—Not less frequently than once every 4 years, the Secretary shall review and recertify that

the process used by a State to develop and maintain the State asset management plan for the National Highway System meets the requirements for the process, as established by the Secretary.

(C) OPPORTUNITY TO CURE.—If the Secretary denies certification under subparagraph (A), the Secretary shall provide the State with—

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

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

(7) PERFORMANCE ACHIEVEMENT.—A State that does not achieve or make significant progress toward achieving the targets of the State for performance measures described in section 150(d) for the National Highway System for 2 consecutive reports submitted under [this paragraph] *section 150(e)* shall include in the next report submitted *under section 150(e)* a description of the actions the State will undertake to achieve the targets.

(8) PROCESS.—Not later than 18 months after the date of enactment of the MAP-21, the Secretary shall, by regulation and in consultation with State departments of transportation, establish the process to develop the State asset management plan described in paragraph (1).

(f) INTERSTATE SYSTEM AND NHS BRIDGE CONDITIONS.—

(1) CONDITION OF INTERSTATE SYSTEM.—

(A) PENALTY.—If, during 2 consecutive reporting periods, the condition of the Interstate System, excluding bridges on the Interstate System, in a State falls below the minimum condition level established by the Secretary under section 150(c)(3), the State shall be required, during the following fiscal year—

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

(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this sec-

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

(B) RESTORATION.—The obligation requirement for the Interstate System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of the Interstate System in the State exceeds the minimum condition level established by the Secretary.

(2) CONDITION OF NHS BRIDGES.—

(A) PENALTY.—If the Secretary determines that, for the 3-year-period preceding the date of the determination, more than 10 percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as structurally deficient, an amount equal to 50 percent of funds apportioned to such State for fiscal year 2009 to carry out section 144 (as in effect the day before enactment of MAP-21) shall be set aside from amounts apportioned to a State for a fiscal year under section 104(b)(1) only for eligible projects on bridges on the National Highway System.

(B) RESTORATION.—The set-aside requirement for bridges on the National Highway System in a State under subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as less than 10 percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as structurally deficient, as determined by the Secretary.

(g) ENVIRONMENTAL MITIGATION.—

(1) ELIGIBLE ACTIVITIES.—In accordance with all applicable Federal law (including regulations), environmental mitigation efforts referred to in subsection (d)(2)(O) include participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may 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 and wetlands; and

(C) the development of statewide and regional environmental protection plans, including natural habitat and wetland conservation and restoration 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 under this subsection:

(A) Contributions to the mitigation effort may—

(i) take place concurrent with, or in advance of, commitment of funding under this title to a project or projects; and

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

(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, in-lieu fee, or other third-party mitigation arrangement, if the use of credits from the mitigation bank or in-lieu fee, or the other third-party mitigation arrangement for the project, is approved by the applicable Federal agency.

(h) TIFIA PROGRAM.—Upon Secretarial approval of credit assistance under chapter 6, the Secretary, at the request of a State, may allow the State to use funds apportioned under section 104(b)(1) to pay subsidy and administrative costs necessary to provide an eligible entity Federal credit assistance under chapter 6 with respect to a project eligible for assistance under this section.

(i) ADDITIONAL FUNDING ELIGIBILITY FOR CERTAIN BRIDGES.—

(1) IN GENERAL.—Funds apportioned to a State to carry out the national highway performance program may be obligated for a project for the reconstruction, resurfacing, restoration, rehabilitation, or preservation of a bridge not on the National Highway System, if the bridge is on a Federal-aid highway.

(2) LIMITATION.—A State required to make obligations under subsection (f) shall ensure such requirements are satisfied in order to use the flexibility under paragraph (1).

§ 120. Federal share payable

(a) INTERSTATE SYSTEM PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost thereof, plus a percentage of the remaining 10 percent of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area; except that such Federal share payable on any project in any State shall not exceed 95 percent of the total cost of such project.

(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to paragraph (1), a State may determine

a lower Federal share than the Federal share determined under such paragraph.

(b) OTHER PROJECTS.—Except as otherwise provided in this title, the Federal share payable on account of any project or activity carried out under this title (other than a project subject to subsection (a)) shall be—

(1) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands therein, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

(2) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area;

except that the Federal share payable on any project in a State shall not exceed 95 percent of the total cost of any such project. In any case where a State elects to have the Federal share provided in paragraph (2) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring such State to use solely for purposes eligible for assistance under this title (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in paragraph (2) and what its share would be if it elected to pay the share provided in paragraph (1) for all projects subject to such agreement. In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection.

(c) INCREASED FEDERAL SHARE.—

(1) CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, maintaining minimum levels of retroreflectivity of highway signs or pavement markings, traffic circles (also known as "roundabouts"), safety rest areas, pavement marking, shoulder and centerline rumble strips and stripes, commuter carpooling and vanpooling, rail-highway crossing closure, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid programs for any fiscal year in accordance with section 104 of this title shall be used under this subsection. In this subsection, the term "safety rest area" means an area where motor vehicle operators can park their vehicles and rest, where food, fuel, and lodging services are not available, and that is located on a seg-

ment of highway with respect to which the Secretary determines there is a shortage of public and private areas at which motor vehicle operators can park their vehicles and rest.

(2) CMAQ PROJECTS.—The Federal share payable on account of a project or program carried out under section 149 with funds obligated in fiscal year 2008 or 2009, or both, shall be not less than 80 percent and, at the discretion of the State, may be up to 100 percent of the cost thereof.

(3) INNOVATIVE PROJECT DELIVERY.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share payable on account of a project, program, or activity carried out with funds apportioned under paragraph (1), (2), or (5) of section 104(b) may, at the discretion of the State, be up to 100 percent for any such project, program, or activity that the Secretary determines—

(i) contains innovative project delivery methods that improve work zone safety for motorists or workers and the quality of the facility;

(ii) contains innovative technologies, *engineering or design approaches,* manufacturing processes, financing, or contracting methods that improve the quality of, extend the service life of, or decrease the long-term costs of maintaining highways and bridges;

(iii) accelerates project delivery while complying with other applicable Federal laws (including regulations) and not causing any significant adverse environmental impact; or

(iv) reduces congestion related to highway construction.

(B) EXAMPLES.—Projects, programs, and activities described in subparagraph (A) may include the use of—

(i) prefabricated bridge elements and systems and other technologies to reduce bridge construction time;

(ii) innovative construction equipment, materials, or techniques, including the use of in-place recycling technology and digital 3-dimensional modeling technologies;

(iii) innovative contracting methods, including the design-build and the construction manager-general contractor contracting methods;

(iv) intelligent compaction equipment; **[**or**]**

(v) innovative pavement materials that have a demonstrated life cycle of 75 or more years, are manufactured with reduced greenhouse gas emissions, and reduce construction-related congestion by rapidly curing; or

[(v)**]** *(vi)* contractual provisions that offer a contractor an incentive payment for early completion of the project, program, or activity, subject to the condition that the incentives are accounted for in the financial plan of the project, when applicable.

(C) LIMITATIONS.—

(i) IN GENERAL.—In each fiscal year, a State may use the authority under subparagraph (A) for up to 10

percent of the combined apportionments of the State under paragraphs (1), (2), and (5) of section 104(b).

(ii) FEDERAL SHARE INCREASE.—The Federal share payable on account of a project, program, or activity described in subparagraph (A) may be increased by up to 5 percent of the total project cost.

(d) The Secretary may rely on a statement from the Secretary of the Interior as to the area of the lands referred to in subsections (a) and (b) of this section. The Secretary of the Interior is authorized and directed to provide such statement annually.

(e) EMERGENCY RELIEF.—The Federal share payable for any repair or reconstruction provided for by funds made available under section 125 for any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on the system as provided in subsections (a) and (b), 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 cost of the repairs;

(2) the Federal share payable for any repair or reconstruction of Federal land transportation facilities, [Federal land access transportation facilities,] *other federally owned roads that are open to public travel,* and tribal transportation facilities may amount to 100 percent of the cost of the repair or reconstruction;

(3) the Secretary shall extend the time period in paragraph (1) taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair; and

(4) the Federal share payable for eligible permanent repairs to restore damaged facilities to predisaster condition may amount to 90 percent of the cost of the repairs if the eligible expenses incurred by the State due to natural disasters or catastrophic failures in a Federal fiscal year exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disasters or failures occurred.

(f) The Secretary is authorized to cooperate with the State transportation departments and with the Department of the Interior in the construction of Federal-aid highways within Indian reservations and national parks and monuments under the jurisdiction of the Department of the Interior and to pay the amount assumed therefor from the funds apportioned in accordance with section 104 of this title to the State wherein the reservations and national parks and monuments are located.

(g) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.

(h) INCREASED NON-FEDERAL SHARE.—Notwithstanding any other provision of this title and subject to such criteria as the Secretary may establish, a State may contribute an amount in excess

of the non-Federal share of a project under this title so as to decrease the Federal share payable on such project.

(i) 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) 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.

(B) SPECIAL RULE FOR USE OF FEDERAL FUNDS.—If the public, quasi-public, or private agency has built, improved, or maintained the facility using Federal funds, the credit under this paragraph shall be reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds.

(C) FEDERAL FUNDS DEFINED.—In this paragraph, the term "Federal funds" does not include loans of Federal funds or other financial assistance that must be repaid to the Government.

(2) MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for any program under this title.

(B) CONDITION ON RECEIPT OF CREDIT.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreement as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures in such fiscal year at or above the average level of such expenditures for the preceding 3 fiscal years; except that if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 130 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years, the agreement shall ensure that the State will maintain its non-Federal transportation capital expenditures in the fiscal year of the credit at or above the average level of such expenditures for the other 2 fiscal years.

(C) TRANSPORTATION CAPITAL EXPENDITURES DEFINED.—In subparagraph (B), the term "non-Federal transportation capital expenditures" includes any payments made by the State for issuance of transportation-related bonds.

(3) TREATMENT.—

(A) LIMITATION ON LIABILITY.—Use of a credit for a non-Federal share under this subsection that is received from a public, quasi-public, or private agency—

(i) shall not expose the agency to additional liability, additional regulation, or additional administrative oversight; and

(ii) shall not subject the agency to any additional Federal design standards or laws (including regulations) as a result of providing the non-Federal share other than those to which the agency is already subject.

(B) CHARTERED MULTISTATE AGENCIES.—When a credit that is received from a chartered multistate agency is applied to a non-Federal share under this subsection, such credit shall be applied equally to all charter States.

(j) USE OF FEDERAL AGENCY FUNDS.—Notwithstanding any other provision of law, any Federal funds other than those made available under this title and title 49 may be used to pay the non-Federal share of the cost of any transportation project that is within, adjacent to, or provides access to Federal land, the Federal share of which is funded under this title or chapter 53 of title 49.

(k) USE OF FEDERAL LAND AND TRIBAL TRANSPORTATION FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the tribal transportation program under section 202 and the Federal lands transportation program under section 203 may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or tribal land.

§ 121. Payment to States for construction

(a) IN GENERAL.—The Secretary, from time to time as the work progresses, may make payments to a State for costs of construction incurred by the State on a project *(including payments made pursuant to a long-term concession agreement, such as availability payments)*. Such payments may also be made for the value of the materials—

(1) that have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

(2) that are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the material cannot be stockpiled in such vicinity.

(b) PROJECT AGREEMENT.—No payment shall be made under this chapter except for a project covered by a project agreement. After completion of the project in accordance with the project agreement, a State shall be entitled to payment out of the appropriate sums apportioned or allocated to the State of the unpaid balance of the Federal share payable for such project.

(c) Such payments shall be made to such official or officials or depository as may be designated by the State transportation department and authorized under the laws of the State to receive public funds of the State.

* * * * * * *

§ 125. Emergency relief

(a) IN GENERAL.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any

area of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

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

(2) catastrophic failure from any external cause.

(b) RESTRICTION ON ELIGIBILITY.—

(1) DEFINITION OF CONSTRUCTION PHASE.—In this subsection, the term "construction phase" means the phase of physical construction of a highway or bridge facility that is separate from any other identified phases, such as planning, design, or right-of- way phases, in the State transportation improvement program.

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

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

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

(c) FUNDING.—

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

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

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

(i) remain available until expended; and

(ii) be in addition to amounts otherwise available to carry out this section for each year; and

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

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

(d) ELIGIBILITY.—

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

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

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

(2) COST LIMITATION.—

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

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

(3) DEBRIS REMOVAL.—The costs of debris removal shall be an eligible expense 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 under section 403, 407, or 502 of that Act (42 U.S.C. 5170b, 5173, 5192)**[**.**]***; or*

(C) projects eligible for assistance under this section located on Federal lands transportation facilities or other federally owned roads that are open to public travel (as defined in subsection (e)).

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

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

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

[(1) DEFINITION OF OPEN TO PUBLIC TRAVEL.—In this subsection, the term "open to public travel" means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road is open to the general public for use with a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other

than for general traffic control or restrictions based on size, weight, or class of registration.]

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

(A) OPEN TO PUBLIC TRAVEL.—The term "open to public travel" means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road—

(i) is maintained;

(ii) is open to the general public; and

(iii) can accommodate travel by a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

(B) STANDARD PASSENGER VEHICLE.—The term "standard passenger vehicle" means a vehicle with 6 inches of clearance from the lowest point of the frame, body, suspension, or differential to the ground.

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

(3) REIMBURSEMENT.—

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

(B) TRANSFERS.—With respect to reimbursements described in subparagraph (A)—

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

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

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

(g) PROTECTING PUBLIC SAFETY AND MAINTAINING ROADWAYS.—The Secretary may use not more than 5 percent of amounts from the emergency fund authorized by this section to carry out projects that the Secretary determines are necessary to protect the public

safety or to maintain or protect roadways that are included within the scope of an emergency declaration by the Governor of the State or by the President, in accordance with this section, and the Governor deems to be an ongoing concern in order to maintain vehicular traffic on the roadway.

§ 126. Transferability of Federal-aid highway funds

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), a State may transfer from an apportionment under section 104(b) not to exceed 50 percent of the amount apportioned for the fiscal year to any other apportionment of the State under that section.

(b) APPLICATION TO CERTAIN SET-ASIDES.—

(1) IN GENERAL.—Funds that are subject to sections 104(d) and 133(d) shall not be transferred under this section.

(2) FUNDS TRANSFERRED BY STATES.—Funds transferred by a State under this section of the funding reserved for the State under [section 213] *section 133(h)* for a fiscal year may only come from the portion of those funds that are available for obligation in any area of the State under [section 213(c)(1)(B)] *section 133(h)*.

§ 127. Vehicle weight limitations - Interstate System

(a) IN GENERAL.—

(1) The Secretary shall withhold 50 percent of the apportionment of a State under section 104(b)(1) in any fiscal year in which the State does not permit the use of The Dwight D. Eisenhower System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more.

(2) However, the maximum gross weight to be allowed by any State for vehicles using The Dwight D. Eisenhower System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula: $W=500(LN/(N-1)+12N+36)$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles (1) is thirty-six feet or more, or (2) in the case of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container before September 1, 1989, is 30 feet or more: Provided, That such overall gross weight may not exceed eighty thousand

pounds, including all enforcement tolerances, except for vehicles using Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles on any vehicle (other than a vehicle comprised of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container on or after September 1, 1989), on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater.

(3) Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse if not released and obligated within the availability period specified in section 118(b)(2) of this title.

(4) This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof, other than vehicles or combinations subject to subsection (d) of this section, which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974.

(5) With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956.

(6) With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered a nondivisible load.

(7) With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

(8) With respect to the State of Maryland, laws and regulations in effect on June 1, 1993, shall be applicable for the purposes of this subsection.

(9) he State of Louisiana may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 100,000 pounds for the hauling of sugarcane during the harvest season, not to exceed 100 days annually.

(10) With respect to Interstate Routes 89, 93, and 95 in the State of New Hampshire, State laws (including regulations) concerning vehicle weight limitations that were in effect on January 1, 1987, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection.

(11)(A) With respect to all portions of the Interstate Highway System in the State of Maine, laws (including regulations) of that State concerning vehicle weight limitations applicable to

other State highways shall be applicable in lieu of the requirements under this subsection through December 31, 2031.

(B) With respect to all portions of the Interstate Highway System in the State of Vermont, laws (including regulations) of that State concerning vehicle weight limitations applicable to other State highways shall be applicable in lieu of the requirements under this subsection through December 31, 2031.

(12) HEAVY DUTY VEHICLES.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 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) the idle reduction technology is fully functional at all times; and

(ii) the 550-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).

(13) MILK PRODUCTS.—A vehicle carrying fluid milk products shall be considered a load that cannot be easily dismantled or divided.

(14) EMERGENCY VEHICLES.—

(A) IN GENERAL.—With respect to an emergency vehicle, the following weight limits shall apply in lieu of the maximum and minimum weight limits specified in this subsection:

(i) 24,000 pounds on a single steering axle.

(ii) 33,500 pounds on a single drive axle.

(iii) 62,000 pounds on a tandem axle.

(iv) A maximum gross vehicle weight of 86,000 pounds.

(B) EMERGENCY VEHICLE DEFINED.—In this paragraph, the term "emergency vehicle" means a vehicle designed—

(i) to be used under emergency conditions to transport personnel and equipment; and

(ii) to support the suppression of fires and mitigation of other hazardous situations.

(b) REASONABLE ACCESS.—No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.

(c) OCEAN TRANSPORT CONTAINER DEFINED.—For purposes of this section, the term "ocean transport container" has the meaning given the term "freight container" by the International Standards Organization in Series 1, Freight Containers, 3rd Edition (reference number IS0668-1979(E)) as in effect on the date of the enactment of this subsection.

(d) LONGER COMBINATION VEHICLES.—

(1) PROHIBITION.—

(A) GENERAL CONTINUATION RULE.—A longer combination vehicle may continue to operate only if the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 1991, or pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186).

(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991; except that subject to such regulations as may be issued by the Secretary pursuant to paragraph (5) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

(C) WYOMING.—In addition to those vehicles allowed under subparagraph (A), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in subsection (a) and do not exceed 117,000 pounds gross vehicle weight.

(D) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under subparagraph (A), such State may allow longer combination vehicles with 3 cargo carrying units of 28 1/2 feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

(E) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under subparagraph (A), such State may allow the operation of longer combination vehicles which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 5, 1991.

(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.

(2) ADDITIONAL STATE RESTRICTIONS.—

(A) IN GENERAL.—Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection; except that such restrictions or prohibitions shall be consistent with the requirements of sections 31111-31114 of title 49.

(B) MINOR ADJUSTMENTS.—Any State further restricting or prohibiting the operations of longer combination vehicles or making minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (5) of this subsection, shall, within 30 days, advise the Secretary of such action, and the Secretary shall publish a notice of such action in the Federal Register.

(3) PUBLICATION OF LIST.—

(A) SUBMISSION TO SECRETARY.—Within 60 days of the date of the enactment of this subsection, each State (i) shall submit to the Secretary for publication in the Federal Register a complete list of (I) all operations of longer combination vehicles being conducted as of June 1, 1991, pursuant to State statutes and regulations; (II) all limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection; and (III) such statutes, regulations, limitations, and conditions; and (ii) shall submit to the Secretary copies of such statutes, regulations, limitations, and conditions.

(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual operation on a regular or periodic basis on or before June 1, 1991.

(D) FINAL LIST.—Except as modified pursuant to paragraph (1)(C) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, longer combination vehicles may not operate on the Interstate System except as provided in the list.

(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by

the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list the Secretary shall correct the publication under subparagraph (D) to reflect the determination of the Secretary.

(4) LONGER COMBINATION VEHICLE DEFINED.—For purposes of this section, the term "longer combination vehicle" means any combination of a truck tractor and 2 or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds.

(5) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (1)(B).

(e) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON INTERSTATE ROUTE 68.—The single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate Route 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal, logs, and pulpwood if such vehicle is of a type of vehicle as was operating in such counties on United States Route 40 or 48 for such purpose on August 1, 1991.

(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 103(c)(4)(A), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of the enactment of this subsection.

(g) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN PENNSYLVANIA HIGHWAYS.—If the segment of United States Route 220 between Bedford and Bald Eagle, Pennsylvania, is designated as part of the Interstate System, the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to that segment with respect to the operation of any vehicle which could have legally operated on that segment before the date of the enactment of this subsection.

(h) WAIVER FOR A ROUTE IN STATE OF MAINE DURING PERIODS OF NATIONAL EMERGENCY.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section with respect to the portion of Interstate Route 95 in the State of Maine between

Augusta and Bangor for the purpose of making bulk shipments of jet fuel to the Air National Guard Base at Bangor International Airport during a period of national emergency in order to respond to the effects of the national emergency.

(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.

(i) SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a State may issue special permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if—

(A) the President has declared the emergency to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(B) the permits are issued in accordance with State law; and

(C) the permits are issued exclusively to vehicles and loads that are delivering relief supplies.

(2) EXPIRATION.—A permit issued under paragraph (1) shall expire not later than 120 days after the date of the declaration of emergency under subparagraph (A) of that paragraph.

(j) OPERATION OF VEHICLES ON CERTAIN OTHER WISCONSIN HIGHWAYS.—If any segment of the United States Route 41 corridor, as described in section 1105(c)(57) of the Intermodal Surface Transportation Efficiency Act of 1991, is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a).

(k) OPERATION OF VEHICLES ON CERTAIN MISSISSIPPI HIGHWAYS.—If any segment of United States Route 78 in Mississippi from mile marker 0 to mile marker 113 is designated as part of the Interstate System, no limit established under this section may apply to that segment with respect to the operation of any vehicle that could have legally operated on that segment before such designation.

(l) OPERATION OF VEHICLES ON CERTAIN KENTUCKY HIGHWAYS.—

(1) IN GENERAL.—If any segment of highway described in paragraph (2) is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a).

(2) DESCRIPTION OF HIGHWAY SEGMENTS.—The highway segments referred to in paragraph (1) are as follows:

(A) Interstate Route 69 in Kentucky (formerly the Wendell H. Ford (Western Kentucky) Parkway) from the Interstate Route 24 Interchange, near Eddyville, to the Edward T. Breathitt (Pennyrile) Parkway Interchange.

(B) The Edward T. Breathitt (Pennyrile) Parkway (to be designated as Interstate Route 69) in Kentucky from the Wendell H. Ford (Western Kentucky) Parkway Interchange to near milepost 77, and on new alignment to an

interchange on the Audubon Parkway, if the segment is designated as part of the Interstate System.

(m) COVERED HEAVY-DUTY TOW AND RECOVERY VEHICLES.—

(1) IN GENERAL.—The vehicle weight limitations set forth in this section do not apply to a covered heavy-duty tow and recovery vehicle.

(2) COVERED HEAVY-DUTY TOW AND RECOVERY VEHICLE DEFINED.—In this subsection, the term "covered heavy-duty tow and recovery vehicle" means a vehicle that—

(A) is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and

(B) has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

* * * * * * *

§ 129. Toll roads, bridges, tunnels, and ferries

(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 to the highway, bridge, or tunnel;

(B) initial construction of 1 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, if the number of toll-free lanes, excluding auxiliary lanes, after the construction is not less than the number of toll-free lanes, excluding auxiliary lanes, before the construction;

(C) initial construction of 1 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 to the highway, bridge, or tunnel;

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

(F) 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;

[(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)] *(G)* conversion of a high occupancy vehicle *(HOV)* lane on a highway, bridge, or tunnel to a toll facility *under section 166 of the title*; and

[(I)] *(H)* 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 to the highway, bridge, or tunnel constructed under this subsection shall—

(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 1 or more private 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] *shall ensure that* all toll revenues received from operation of the toll facility *are used* 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) a 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, any other purpose for which Federal funds may be obligated by a State under this title.

(B) ANNUAL AUDIT.—

(i) IN GENERAL.—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 the audits to the Secretary.

(ii) RECORDS.—On 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 paragraph (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—

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

[(II) to 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)] *(4)* SPECIAL RULE FOR FUNDING.—

(A) IN GENERAL.—In the case of a toll facility under the jurisdiction of a public authority of a State (other than the State transportation department), on request of the State transportation department and subject to such terms and conditions as the department and public authority may agree, the Secretary, working through the State department of transportation, shall reimburse the 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 the department would be reimbursed if the project was being carried out by the department.

(B) SOURCE.—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 the State on which the project is being carried out.

[(6)] *(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.

[(7)] *(6)* 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 (105 Stat. 1915), requests modification of the agreement, the Secretary shall modify the agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

[(8)] *(7)* LOANS.—

(A) IN GENERAL.—

(i) LOANS.—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 the project.

(ii) DEDICATED REVENUE SOURCES.—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)] *(8)* 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 MAP-21, before commencing any activity authorized under this section, the State shall have in effect a law that permits tolling on a highway, bridge, or tunnel.

[(10)] *(9)* DEFINITIONS.—In this subsection, the following definitions apply:

(A) HIGH OCCUPANCY VEHICLE; HOV.—The term "high occupancy vehicle" or "HOV" means a vehicle with not fewer than 2 occupants.

(B) INITIAL CONSTRUCTION.—

(i) IN GENERAL.—The term "initial construction" means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic.

(ii) EXCLUSIONS.—The term "initial construction" 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 to the highway, bridge, or tunnel constructed under this subsection.

(b) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation under this title in the construction of a project constituting an approach to a ferry, whether toll or free, the route of which is a public road and has not been designated as a route on the Interstate System. Such ferry may be either publicly or privately owned and operated, but the operating authority and the amount of fares charged for passage shall be under the control of a State agency or official, and all revenues derived from publicly owned or operated ferries shall be applied to payment of the cost of construction or acquisition thereof, including debt service, and to actual and necessary costs of operation, maintenance, repair, and replacement.

(c) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in the construction of ferry boats and ferry terminal facilities, whether toll or free, subject to the following conditions:

(1) It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry.

(2) The operation of the ferry shall be on a route classified as a public road within the State and which has not been designated as a route on the Interstate System. Projects under this subsection may be eligible for both ferry boats carrying cars and passengers and ferry boats carrying passengers only.

(3) Such ferry boat or ferry terminal facility shall be publicly owned or operated or majority publicly owned if the Secretary determines with respect to a majority publicly owned ferry or

ferry terminal facility that such ferry boat or ferry terminal facility provides substantial public benefits.

(4) The operating authority and the amount of fares charged for passage on such ferry shall be under the control of the State or other public entity, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, and repair, debt service, negotiated management fees, and, in the case of a privately operated toll ferry, for a reasonable rate of return.

(5) Such ferry may be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise any territory of the United States) or between adjoining States or between a point in a State and a point in the Dominion of Canada. Except with respect to operations between the islands which comprise the State of Hawaii, operations between the islands which comprise any territory of the United States, operations between a point in a State and a point in the Dominion of Canada, and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of such ferry operation shall be in any foreign or international waters.

(6) No such ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from such a disposition shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to such State. Any amount so credited shall be in addition to all other funds then apportioned to such State and available for expenditure in accordance with the provisions of this title.

§ 130. Railway-highway crossings

(a) Subject to section 120 and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may be paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project, subject to section 120 and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State transportation department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(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.

(e) FUNDS FOR PROTECTIVE DEVICES.—

[(1) IN GENERAL.—Before making an apportionment under section 104(b)(3) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, at least $220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings. At least 1/2 of the funds authorized for and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated to carry out this section shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title.]

(1) IN GENERAL.—

(A) SET ASIDE.—Before making an apportionment under section 104(b)(3) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, for the elimination of hazards and the installation of protective devices at railway-highway crossings at least—

(i) $225,000,000 for fiscal year 2016;
(ii) $230,000,000 for fiscal year 2017;
(iii) $235,000,000 for fiscal year 2018;
(iv) $240,000,000 for fiscal year 2019;

(v) $245,000,000 for fiscal year 2020; and

(vi) $250,000,000 for fiscal year 2021.

(B) INSTALLATION OF PROTECTIVE DEVICES.—At least 1/2 of the funds set aside each fiscal year under subparagraph (A) shall be available for the installation of protective devices at railway-highway crossings.

(C) OBLIGATION AVAILABILITY.—Sums set aside each fiscal year under subparagraph (A) shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title.

(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this section for other highway safety improvement program purposes.

(f) APPORTIONMENT.—

(1) FORMULA.—Fifty percent of the funds set aside to carry out this section pursuant to subsection (e)(1) shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A) as in effect on the day before the date of enactment of the MAP-21, and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under paragraph (1).

(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds set aside to carry out this section shall be 90 percent of the cost thereof.

(g) ANNUAL REPORT.—Each State shall report to the Secretary not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary shall submit a report to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, not later than April 1, 2006, and every 2 years thereafter,, on the progress being made by the State in implementing projects to improve railway-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, 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 (d) and include recommendations for future implementation of the railroad highway crossings program.

(h) USE OF FUNDS FOR MATCHING.—Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when the local gov-

ernment produces matching funds for the improvement of railway-highway crossings.

(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade railway-highway crossings under the jurisdiction of such governments.

(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

(B) $7,500.

(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.

(j) BICYCLE SAFETY.—In carrying out projects under this section, a State shall take into account bicycle safety.

(k) EXPENDITURE OF FUNDS.—Not more than 2 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).

(l) NATIONAL CROSSING INVENTORY.—

(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported public crossing located within its borders.

(2) PERIODIC UPDATING OF CROSSING INFORMATION.—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 State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each public crossing located within its borders.

* * * * * * *

§ 133. [Surface transportation program] *Surface transportation block grant program*

[(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation program in accordance with this section.

[(b) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to it under section 104(b)(2) for the surface transportation program only for the following:

[(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements for highways, including construction of designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40.

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

[(3) Construction of a new bridge or tunnel 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 144), and inspection and evaluation of other highway assets (including signs, retaining walls, and drainage structures).

[(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.

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

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

[(8) Highway and transit research and development and technology transfer programs.

[(9) Capital and operating costs for traffic monitoring, management, and control facilities and programs, including advanced truck stop electrification systems.

[(10) Surface transportation planning programs.

[(11) Transportation alternatives.

[(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)).

[(13) Development and establishment of management systems

[(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(g).

[(15) Projects relating to intersections that—

[(A) have disproportionately high accident rates;

[(B) have high levels of congestion, as evidenced by—

[(i) interrupted traffic flow at the intersection; and

[(ii) a level of service rating that is not better than "F'" during peak travel hours, calculated in accordance with the Highway Capacity Manual issued by the Transportation Research Board; and

[(C) are located on a Federal-aid highway.

[(16) Infrastructure-based intelligent transportation systems capital improvements.

[(17) Environmental restoration and pollution abatement in accordance with section 328.

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

[(19) Projects and strategies designed to support congestion pricing, including electric toll collection and travel demand management strategies and programs.

[(20) Recreational trails projects eligible for funding under section 206.

[(21) Construction of ferry boats and ferry terminal facilities eligible for funding under section 129(c).

[(22) Border infrastructure projects eligible for funding under section 1303 of the SAFETEA-LU (23 U.S.C. 101 note; Public Law 109-59).

[(23) Truck parking facilities eligible for funding under section 1401 of the MAP-21.

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

[(25) A project that, 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.

[(26) Construction and operational improvements for any minor collector if—

[(A) the minor collector, and the project to be carried out with respect to the minor collector, are in the same corridor as, and in proximity to, a Federal-aid highway designated as part of the National Highway System;

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

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

[(c) LOCATION OF PROJECTS.—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, except—

[(1) as provided in subsection (g);

[(2) for projects described in paragraphs (2), (4), (6), (7), (11), (20), (25), and (26) of subsection (b); and

[(3) as approved by the Secretary.

[(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

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

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

[(i) in urbanized areas of the State with an urbanized area population of over 200,000;

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

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

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

[(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

[(3) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of paragraph (1)(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 regional transportation planning organizations that represent the area, if any.

[(4) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

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

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

[(5) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135.

[(e) ADMINISTRATION.—

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

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

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

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

[(3) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under paragraph (1) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.]

(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation block grant program in accordance with this section to provide flexible funding to address State and local transportation needs.

(b) ELIGIBLE PROJECTS.—Funds apportioned to a State under section 104(b)(2) for the surface transportation block grant program may be obligated for the following:

(1) Construction of—

(A) highways, bridges, tunnels, including designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40;

(B) ferry boats and terminal facilities eligible for funding under section 129(c);

(C) transit capital projects eligible for assistance under chapter 53 of title 49;

(D) infrastructure-based intelligent transportation systems capital improvements;

(E) truck parking facilities eligible for funding under section 1401 of MAP–21 (23 U.S.C. 137 note); and

(F) border infrastructure projects eligible for funding under section 1303 of SAFETEA–LU (23 U.S.C. 101 note).

(2) Operational improvements and capital and operating costs for traffic monitoring, management, and control facilities and programs.

(3) Environmental measures eligible under sections 119(g), 328, and 329 and transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi) of that section) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).

(4) Highway and transit safety infrastructure improvements and programs, including railway-highway grade crossings.

(5) Fringe and corridor parking facilities and programs in accordance with section 137 and carpool projects in accordance with section 146.

(6) Recreational trails projects eligible for funding under section 206, pedestrian and bicycle projects in accordance with section 217 (including modifications to comply with accessibility requirements under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)), and the safe routes to school program under section 1404 of SAFETEA–LU (23 U.S.C. 402 note).

(7) Planning, design, or construction of boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

(8) Development and implementation of a State asset management plan for the National Highway System and a performance-based management program for other public roads.

(9) Protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges (including approaches to bridges and other elevated structures) and tunnels on public roads, and inspection and evaluation of bridges and tunnels and other highway assets.

(10) Surface transportation planning programs, highway and transit research and development and technology transfer programs, and workforce development, training, and education under chapter 5 of this title.

(11) Surface transportation infrastructure modifications to facilitate direct intermodal interchange, transfer, and access into and out of a port terminal.

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

(13) At the request of a State, and upon Secretarial approval of credit assistance under chapter 6, subsidy and administrative costs necessary to provide an eligible entity Federal credit assistance under chapter 6 with respect to a project eligible for assistance under this section.

(14) The creation and operation by a State of an office to assist in the design, implementation, and oversight of public-private partnerships eligible to receive funding under this title and chapter 53 of title 49, and the payment of a stipend to unsuccessful private bidders to offset their proposal development costs, if necessary to encourage robust competition in public-private partnership procurements.

(15) Any type of project eligible under this section as in effect on the day before the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, including projects described under section 101(a)(29) as in effect on such day.

(c) LOCATION OF PROJECTS.—A surface transportation block grant project may not be undertaken on a road functionally classified as a local road or a rural minor collector unless the road was on a Federal-aid highway system on January 1, 1991, except—

(1) for a bridge or tunnel project (other than the construction of a new bridge or tunnel at a new location);

(2) for a project described in paragraphs (4) through (11) of subsection (b);

(3) for a project described in section 101(a)(29), as in effect on the day before the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015; and

(4) as approved by the Secretary.

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

(1) CALCULATION.—Of the funds apportioned to a State under section 104(b)(2) (after the reservation of funds under subsection (h))—

(A) the percentage specified in paragraph (6) for a fiscal year shall be obligated under this section, in proportion to their relative shares of the population of the State—

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

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

(iii) in other areas of the State; and

(B) the remainder may be obligated in any area of the State.

(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

(3) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of paragraph (1)(A)(iii), 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 regional transportation planning organizations that represent the area, if any.

(4) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

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

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

(5) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135.

(6) PERCENTAGE.—The percentage referred to in paragraph (1)(A) is—

(A) for fiscal year 2016, 51 percent;

(B) for fiscal year 2017, 52 percent;

(C) for fiscal year 2018, 53 percent;

(D) for fiscal year 2019, 54 percent;

(E) for fiscal year 2020, 55 percent; and

(F) for fiscal year 2021, 55 percent.

[(f)**]** *(e)* 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)**]** *104(b)(2)* shall make available during the period of **[**fiscal years 2011 through 2014**]** *fiscal years 2016 through 2021* 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) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

(B) the ratio that—

(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).

[(g)] *(f)* BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

(1) DEFINITION OF OFF-SYSTEM BRIDGE.—In this subsection, the term "off-system bridge" means a highway bridge located on a public road, other than a bridge on a Federal-aid highway.

(2) SPECIAL RULE.—

(A) SET-ASIDE.—Of the amounts apportioned to a State for fiscal year 2013 and each fiscal year thereafter under this section, the State shall obligate for activities described in subsection (b)(2) for off-system bridges an amount that is not less than 15 percent of the amount of funds apportioned to the State for the highway bridge program for fiscal year 2009, except that amounts allocated under subsection (d) shall not be obligated to carry out this subsection.

(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditures for off-system bridges under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

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

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

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

[(h)] *(g)* SPECIAL RULE FOR AREAS OF LESS THAN 5,000 POPULATION.—

(1) SPECIAL RULE.—Notwithstanding subsection (c), and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State [under subsection (d)(1)(A)(iii) for each of fiscal years 2013 through 2014] *under subsection (d)(1)(A)(ii) for each of fiscal years 2016 through 2021* 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.

(h) STP SET-ASIDE.—

(1) RESERVATION OF FUNDS.—Of the funds apportioned to a State under section 104(b)(2) for each fiscal year, the Secretary shall reserve an amount such that—

(A) the Secretary reserves a total of $819,900,000 under this subsection; and

(B) the State's share of that total is determined by multiplying the amount under subparagraph (A) by the ratio that—

(i) the amount apportioned to the State for the transportation enhancements program for fiscal year 2009 under section 133(d)(2), as in effect on the day before the date of enactment of MAP–21; bears to

(ii) the total amount of funds apportioned to all States for the transportation enhancements program for fiscal year 2009.

(2) ALLOCATION WITHIN A STATE.—Funds reserved for a State under paragraph (1) shall be obligated within that State in the manner described in subsection (d), except that, for purposes of this paragraph (after funds are made available under paragraph (5))—

(A) for each fiscal year, the percentage referred to in paragraph (1)(A) of that subsection shall be deemed to be 50 percent; and

(B) the following provisions shall not apply:

(i) Paragraph (3) of subsection (d).

(ii) Subsection (e).

(3) ELIGIBLE PROJECTS.—Funds reserved under this subsection may be obligated for projects or activities described in section 101(a)(29) or 213, as such provisions were in effect on the day before the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015.

(4) ACCESS TO FUNDS.—

(A) IN GENERAL.—A State or metropolitan planning organization required to obligate funds in accordance with paragraph (2) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection. A metropolitan planning organization for an area described in subsection (d)(1)(A)(i) shall select projects under such process in consultation with the relevant State.

(B) ELIGIBLE ENTITY DEFINED.—In this paragraph, the term "eligible entity" means—

(i) a local government;

(ii) a regional transportation authority;

(iii) a transit agency;

(iv) a natural resource or public land agency;

(v) a school district, local education agency, or school;

(vi) a tribal government; and

(vii) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

(5) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—For each fiscal year, a State shall—

(A) obligate an amount of funds reserved under this section equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2), as in effect on the day before the date of enactment of MAP–21, for projects relating to recreational trails under section 206;

(B) return 1 percent of those funds to the Secretary for the administration of that program; and

(C) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described in subsection (d)(3)(A) of that section.

(6) STATE FLEXIBILITY.—

(A) RECREATIONAL TRAILS.—A State may opt out of the recreational trails program under paragraph (5) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.

(B) LARGE URBANIZED AREAS.—A metropolitan planning area may use not to exceed 50 percent of the funds reserved under this subsection for an urbanized area described in subsection (d)(1)(A)(i) for any purpose eligible under subsection (b).

(i) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section (excluding those carried out under subsection (h)(5)) shall be treated as projects on a Federal-aid highway under this chapter.

§ 134. Metropolitan transportation planning

(a) POLICY.—It is in the national interest—

(1) to 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) to 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 established as a result of the designation process under 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) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term "regional transportation planning organization" means a policy board of an organization established as the result of a designation under section 135(m).

(6) TIP.—The term "TIP" means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(7) URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as determined 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 through a performance-driven, outcome-based approach to planning for metropolitan 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], *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 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 determined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—Not later than 2 years after the date of enactment of MAP-21, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

(C) appropriate State officials.

(3) REPRESENTATION.—

(A) IN GENERAL.—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

(B) PUBLIC TRANSPORTATION REPRESENTATIVE.—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).

[(3)**]** *(4)* 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—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

[(4)**]** *(5)* 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)**]** *paragraph (6)*.

[(5)**]** *(6)* REDESIGNATION PROCEDURES.—

(A) IN GENERAL.—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 determined by the Bureau of the Census) as appropriate to carry out this section.

(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

[(6)] *(7)* 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.—

(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), 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.

(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in [subsection (d)(5)] *subsection (d)(6)*.

(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 (42 U.S.C. 7401 et seq.) 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 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.

(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 (42 U.S.C. 7401 et seq.), 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.—

(A) IN GENERAL.—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, *tourism, natural disaster risk reduction,* environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

(B) REQUIREMENTS.—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—

(i) recipients of assistance under chapter 53 of title 49;

(ii) 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

(iii) 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[.]*;*

(I) improve the resilience and reliability of the transportation system; and

(J) enhance travel and tourism.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of this title [and in section 5301(c) of title 49] *and the general purposes described in section 5301 of title 49*.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described

in section 150(c), where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d) of title 49.

(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed under chapter 53 of title 49 by providers of public transportation, required as part of a performance-based program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) 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) REQUIREMENTS.—

(A) 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.

(B) FREQUENCY.—

(i) IN GENERAL.—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:

(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).

(ii) OTHER AREAS.—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.—

(i) IN GENERAL.—An identification of transportation facilities (including major roadways, [transit,] *public transportation facilities, intercity bus facilities,* multimodal and intermodal facilities, nonmotorized transportation 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.

(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

(D) 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.

(E) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted 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 plan; and

(III) recommends any additional financing strategies for needed projects and programs.

(ii) INCLUSIONS.—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.

(iii) COOPERATIVE DEVELOPMENT.—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.

(F) 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.

(G) 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.

(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), 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 that Act.

(4) OPTIONAL SCENARIO DEVELOPMENT.—

(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

(i) potential regional investment strategies for the planning horizon;

(ii) assumed distribution of population and employment;

(iii) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

(iv) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

(v) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

(vi) estimated costs and potential revenues available to support each scenario.

(C) METRICS.—In addition to the performance measures identified in section 150(c), metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

(5) 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.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, *public ports,* freight shippers, providers of freight transportation services, private providers of transportation *(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)*, 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).

(7) 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.

(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding [paragraph (2)(C)] *paragraph (2)(E)*, 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)] *paragraph (2)(E)*.

(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 metropolitan planning area that—

(i) contains projects consistent with the current metropolitan transportation plan;

(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

(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—

(i) updated at least once every 4 years; and

(ii) 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.

(D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

(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 1 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.—

(i) IN GENERAL.—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.

(ii) REQUIREMENT.—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.—

(A) IN GENERAL.—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 *(including intercity bus operators, employer-based commuting programs such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects,* and operational management strategies.

(B) SCHEDULE.—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.

(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization with a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and nonprofit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.

(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) 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 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) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection.

(2) REPORT.—Not later than 5 years after the date of enactment of the MAP-21, the Secretary shall submit to Congress a report evaluating—

(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area [of less than 200,000] *with a population of 200,000 or less* and their ability to carry out the requirements of this section.

(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(m) 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 (42 U.S.C. 7401 et seq.).

(n) 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 (42 U.S.C. 7401 et seq.), 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).

(o) 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.

(p) FUNDING.—[Funds set aside under section 104(f)] *Funds apportioned under section 104(b)(5)* of this title or section 5305(g) of title 49 shall be available to carry out this section.

(q) 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 that 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 that Act.

§ 135. Statewide and nonmetropolitan transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134, 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.

(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], *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 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.—Two or more States may 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 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**[**.**]***;*

(I) improve the resilience and reliability of the transportation system; and

(J) enhance travel and tourism.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of this title **[**and in section 5301(c) of title 49**]** *and the general purposes described in section 5301 of title 49*.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in section 150(c), where applicable, to use in tracking progress towards attainment of critical outcomes for the State.

(II) COORDINATION.—Selection of performance targets by a State shall be coordinated with the relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—In [urbanized] areas not represented by a metropolitan planning organization, selection of performance targets by a State shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d) of title 49.

(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph, in other State transportation plans and transportation processes, as well as any plans developed pursuant to chapter 53 of title 49 by providers of public transportation in [urbanized] areas not represented by a metropolitan planning organization required as part of a performance-based program.

(D) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be considered by a State when developing policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum—

(1) with respect to nonmetropolitan areas, cooperate with affected local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m);

(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) consider 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.—

(i) IN GENERAL.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in cooperation with affected nonmetropolitan officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

(ii) ROLE OF SECRETARY.—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 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 to—

(i) nonmetropolitan local elected officials or, if applicable, through regional transportation planning organizations described in subsection (m), an opportunity to participate in accordance with subparagraph (B)(i); and

(ii) citizens, affected public agencies, representatives of public transportation employees, *public ports,* freight shippers, private providers of transportation *(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)*, 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 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) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and dis-

crete from the public involvement process developed under clause (ii);

(ii) hold any public meetings at convenient and accessible locations and times;

(iii) employ visualization techniques to describe plans; and

(iv) 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) a financial plan that—

(i) demonstrates how the adopted statewide 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 plan; and

(iii) recommends any additional financing strategies for needed projects and programs; and

(B) 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) PERFORMANCE-BASED APPROACH.—The statewide transportation plan [should] *shall* include—

(A) a description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (d)(2); and

(B) a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2), including progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

(8) 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.

(9) 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.—

(A) IN GENERAL.—Each State shall develop a statewide transportation improvement program for all areas of the State.

(B) DURATION AND UPDATING OF PROGRAM.—Each program developed under subparagraph (A) shall cover a period of 4 years and shall be updated every 4 years or more frequently if the Governor of the State 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.—

(i) IN GENERAL.—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 or, if applicable, through regional transportation planning organizations described in subsection (m).

(ii) ROLE OF SECRETARY.—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) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

(5) INCLUDED PROJECTS.—

(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall in-

clude Federally supported surface transportation expenditures within the boundaries of the State.

(B) LISTING OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects for which funds have been obligated for 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.

(ii) FUNDING CATEGORIES.—The listing described in clause (i) 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 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 (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as a nonattainment area for ozone, particulate matter, or carbon monoxide under part D of title I of that Act (42 U.S.C. 7501 et seq.).

(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.—

(i) IN GENERAL.—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.

(ii) ADDITIONAL PROJECTS.—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 title and chapter 53 of title 49.

(6) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

(A) IN GENERAL.—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 and 5311 of title 49), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

(B) OTHER PROJECTS.—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.

(7) 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.

(8) 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.

(9) 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) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

(A) The extent to which the State is making progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed appropriate performance targets.

(B) The extent to which the State has made transportation investments that are efficient and cost-effective.

(C) The extent to which the State—

(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

(ii) provides reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

(2) REPORT.—

(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP-21, the Secretary shall submit to Congress a report evaluating—

(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

(ii) the effectiveness of the performance-based planning process of each State.

(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(i) FUNDING.—Funds apportioned under section 104(b)(5) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

(j) 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 section and section 134 and sections 5303 and 5304 of title 49, as appropriate.

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

(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.

(m) 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 transportation improvement programs, 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 multijurisdictional organization of nonmetropolitan local officials or their designees who volunteer for such organization and representatives of local transportation systems who volunteer for such organization.

(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, 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, metropolitan planning organizations, 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.

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§ 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 Federal lands transportation facility) 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.

(b) DE MINIMIS IMPACTS.—

(1) REQUIREMENTS.—

(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (a)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a

transportation program or project will have a de minimis impact on the area. The requirements of subsection (a)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, in accordance with the consultation process required under section 306108 of title 54, that—

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

(c) SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES.—

(1) IN GENERAL.—The Secretary shall—

(A) align, to the maximum extent practicable, with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.) and section 306108 of title 54, including implementing regulations; and

(B) not later than 90 days after the date of enactment of this subsection, coordinate with the Secretary of the Interior and the Executive Director of the Advisory Council on Historic Preservation (referred to in this subsection as the "Council") to establish procedures to satisfy the requirements described in subparagraph (A) (including regulations).

(2) AVOIDANCE ALTERNATIVE ANALYSIS.—

(A) IN GENERAL.—If, in an analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the Secretary determines that there is no feasible or prudent alternative to avoid use of a historic site, the Secretary may—

(i) include the determination of the Secretary in the analysis required under that Act;

(ii) provide a notice of the determination to—

(I) each applicable State historic preservation officer and tribal historic preservation officer;

(II) the Council, if the Council is participating in the consultation process under section 306108 of title 54; and

(III) the Secretary of the Interior; and

(iii) request from the applicable preservation officer, the Council, and the Secretary of the Interior a concurrence that the determination is sufficient to satisfy the requirement of subsection (a)(1).

(B) CONCURRENCE.—If the applicable preservation officer, the Council, and the Secretary of the Interior each provide a concurrence requested under subparagraph (A)(iii), no further analysis under subsection (a)(1) shall be required.

(C) PUBLICATION.—A notice of a determination, together with each relevant concurrence to that determination, under subparagraph (A) shall be—

(i) included in the record of decision or finding of no significant impact of the Secretary; and

(ii) posted on an appropriate Federal Web site by not later than 3 days after the date of receipt by the Secretary of all concurrences requested under subparagraph (A)(iii).

(3) ALIGNING HISTORICAL REVIEWS.—

(A) IN GENERAL.—If the Secretary, the applicable preservation officer, the Council, and the Secretary of the Interior concur that no feasible and prudent alternative exists as described in paragraph (2), the Secretary may provide to the applicable preservation officer, the Council, and the Secretary of the Interior notice of the intent of the Secretary to satisfy the requirements of subsection (a)(2) through the consultation requirements of section 306108 of title 54.

(B) SATISFACTION OF CONDITIONS.—To satisfy the requirements of subsection (a)(2), each individual described in paragraph (2)(A)(ii) shall concur in the treatment of the applicable historic site described in the memorandum of agreement or programmatic agreement developed under section 306108 of title 54.

(d) RAIL AND TRANSIT.—

(1) IN GENERAL.—Improvements to, or the maintenance, rehabilitation, or operation of, railroad or rail transit lines or elements thereof that are in use or were historically used for the transportation of goods or passengers shall not be considered a use of a historic site under subsection (a), regardless of whether the railroad or rail transit line or element thereof is listed on, or eligible for listing on, the National Register of Historic Places.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to—

(i) stations; or

(ii) bridges or tunnels located on—

(I) railroad lines that have been abandoned; or

(II) transit lines that are not in use.

(B) CLARIFICATION WITH RESPECT TO CERTAIN BRIDGES AND TUNNELS.—The bridges and tunnels referred to in subparagraph (A)(ii) do not include bridges or tunnels located on railroad or transit lines—

(i) over which service has been discontinued; or

(ii) that have been railbanked or otherwise reserved for the transportation of goods or passengers.

(e) REFERENCES TO PAST TRANSPORTATION ENVIRONMENTAL AUTHORITIES.—

(1) SECTION 4(F) REQUIREMENTS.—The requirements of this section are commonly referred to as section 4(f) requirements (see section 4(f) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 934) as in effect before the repeal of that section).

(2) SECTION 106 REQUIREMENTS.—The requirements of section 306108 of title 54 are commonly referred to as section 106 requirements (see section 106 of the National Historic Preservation Act of 1966 (Public Law 89–665; 80 Stat. 915) as in effect before the repeal of that section).

(f) BRIDGE EXEMPTION.—A common post-1945 concrete or steel bridge or culvert that is exempt from individual review under section 306108 of title 54 (as described in 77 Fed. Reg. 68790) shall be treated under this section as having a de minimis impact on an area.

§ 139. Efficient environmental reviews for project decision-making

(a) DEFINITIONS.—In this section, 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 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.).

(4) 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.

[(5) 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.]

(5) MULTIMODAL PROJECT.—The term "multimodal project" means a project that requires the approval of more than 1 Department of Transportation operating administration or secretarial office.

(6) PROJECT.—The term "project" means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

(7) 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.

(8) STATE TRANSPORTATION DEPARTMENT.—The term "State transportation department" means any statewide agency of a State with responsibility for one or more modes of transportation.

(9) SUBSTANTIAL DEFERENCE.—The term "substantial deference" means deference by a participating agency to the recommendations and decisions of the lead agency unless it is not possible to defer without violating the participating agency's statutory responsibilities.

(b) APPLICABILITY.—

(1) IN GENERAL.—The project development procedures in this section are applicable to all 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 projects for which an environmental document is prepared pursuant to such Act.

(2) FLEXIBILITY.—Any authorities granted in this section may be exercised, and any requirements established under this section may be satisfied, for a project, class of projects, or program of projects.

(3) PROGRAMMATIC COMPLIANCE.—

(A) IN GENERAL.—The Secretary shall [initiate a rulemaking to] allow for the use of programmatic approaches to conduct environmental reviews that—

(i) eliminate repetitive discussions of the same issues;

(ii) focus on the actual issues ripe for analyses at each level of review; and

(iii) are consistent with—

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

(II) other applicable laws.

[(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall—

[(i) before initiating the rulemaking under that subparagraph, consult with relevant Federal agencies and State resource agencies, State departments of transportation, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches;

[(ii) emphasize the importance of collaboration among relevant Federal agencies, State agencies, and Indian tribes in undertaking programmatic reviews, especially with respect to including reviews with a broad geographic scope;

[(iii) ensure that the programmatic reviews—

[(I) promote transparency, including of the analyses and data used in the environmental reviews, the treatment of any deferred issues raised by agencies or the public, and the temporal and special scales to be used to analyze such issues;

[(II) use accurate and timely information in reviews, including—

[(aa) criteria for determining the general duration of the usefulness of the review; and

[(bb) the timeline for updating any out-of-date review;

[(III) describe—

[(aa) the relationship between programmatic analysis and future tiered analysis; and

[(bb) the role of the public in the creation of future tiered analysis; and

[(IV) are available to other relevant Federal and State agencies, Indian tribes, and the public;

[(iv) allow not fewer than 60 days of public notice and comment on any proposed rule; and

[(v) address any comments received under clause (iv).]

(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall ensure that programmatic reviews—

(i) promote transparency, including the transparency of—

(I) the analyses and data used in the environmental reviews;

(II) the treatment of any deferred issues raised by agencies or the public; and

(III) the temporal and spatial scales to be used to analyze issues under subclauses (I) and (II);

(ii) use accurate and timely information, including through establishment of—

(I) criteria for determining the general duration of the usefulness of the review; and

(II) a timeline for updating an out-of-date review;

(iii) describe—

(I) the relationship between any programmatic analysis and future tiered analysis; and

(II) the role of the public in the creation of future tiered analysis;

(iv) are available to other relevant Federal and State agencies, Indian tribes, and the public; and

(v) provide notice and public comment opportunities consistent with applicable requirements.

(c) LEAD AGENCIES.—

(1) FEDERAL LEAD AGENCY.—

(A) IN GENERAL.—The Department of Transportation*, or an operating administration thereof designated by the Secretary,* shall be the Federal lead agency in the environmental review process for a project.

(B) MODAL ADMINISTRATION.—If the project requires approval from more than 1 modal administration within the Department, the Secretary may 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 receiving funds under this title or chapter 53 of title 49 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.

(4) ENSURING COMPLIANCE.—The Secretary shall ensure that the 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 project changes become necessary.

(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.

(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any 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 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 applicable Federal law.

(d) 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 project,] *Not later than 45 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall identify* any other Federal and non-Federal agencies that may have an interest in the project, and shall invite such agencies to become participating agencies in the environmental review process for the 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 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 project;

(B) has no expertise or information relevant to the project; and

(C) does not intend to submit comments on the project.

(4) EFFECT OF DESIGNATION.—

(A) REQUIREMENT.—A participating agency shall comply with the requirements of 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.

(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 PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.

(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

(A) carry out the 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.), unless doing so would impair the ability of the Federal agency to conduct needed analysis or otherwise 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.

(8) SINGLE NEPA DOCUMENT.—

(A) IN GENERAL.—Except as inconsistent with paragraph (7), to the maximum extent practicable and consistent with Federal law, all Federal permits and reviews for a project shall rely on a single environment document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the leadership of the lead agency.

(B) USE OF DOCUMENT.—

(i) IN GENERAL.—To the maximum extent practicable, the lead agency shall develop an environmental document sufficient to satisfy the requirements for any Federal approval or other Federal action required for the project, including permits issued by other Federal agencies.

(ii) COOPERATION OF PARTICIPATING AGENCIES.—Other participating agencies shall cooperate with the lead agency and provide timely information to help the lead agency carry out this subparagraph.

(C) TREATMENT AS PARTICIPATING AND COOPERATING AGENCIES.—A Federal agency required to make an approval or take an action for a project, as described in subparagraph (B), shall work with the lead agency for the project to ensure that the agency making the approval or taking the action is treated as being both a participating and cooperating agency for the project.

(e) PROJECT INITIATION.—

(1) IN GENERAL.—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.

(2) SUBMISSION OF DOCUMENTS.—The project sponsor may satisfy the requirement under paragraph (1) by submitting to the Secretary any relevant documents containing the information described in that paragraph, including a draft notice for publication in the Federal Register announcing the preparation of an environmental review for the project.

(3) ENVIRONMENTAL CHECKLIST.—

(A) DEVELOPMENT.—The lead agency for a project, in consultation with participating agencies, shall develop, as appropriate, a checklist to help project sponsors identify potential natural, cultural, and historic resources in the area of the project.

(B) PURPOSE.—The purposes of the checklist are—

(i) to identify agencies and organizations that can provide information about natural, cultural, and historic resources;

(ii) to develop the information needed to determine the range of alternatives; and

(iii) to improve interagency collaboration to help expedite the permitting process for the lead agency and participating agencies.

(f) PURPOSE AND NEED*; ALTERNATIVES ANALYSIS*.—

(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 project.

(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the 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 statewide or metropolitan transportation plan;

(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans; and

(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies.

(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 project.**]**

(A) PARTICIPATION.—

(i) IN GENERAL.—As early as practicable during the environmental review process, the lead agency shall seek the involvement of participating agencies and the public for the purpose of reaching agreement early in the environmental review process on a reasonable range of alternatives that will satisfy all subsequent Federal environmental review and permit requirements.

(ii) COMMENTS OF PARTICIPATING AGENCIES.—To the maximum extent practicable and consistent with applicable law, each participating agency receiving an opportunity for involvement under clause (i) shall—

(I) limit the agency's comments to subject matter areas within the agency's special expertise or jurisdiction; and

(II) afford substantial deference to the range of alternatives recommended by the lead agency.

(iii) EFFECT OF NONPARTICIPATION.—A participating agency that declines to participate in the development of the purpose and need and reasonable range of alternatives for a project shall be required to comply with the schedule developed under subsection (g)(1)(B).

(B) RANGE OF ALTERNATIVES.—**[**Following participation under paragraph (1)**]**

(i) DETERMINATION.—Following participation under subparagraph (A), 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) USE.—To the maximum extent practicable and consistent with Federal law, the range of alternatives determined for a project under clause (i) shall be used for all Federal environmental reviews and permit processes required for the project unless the alternatives must be modified—

(I) to address significant new information or circumstances, and the lead agency and participating agencies agree that the alternatives must be modified to address the new information or circumstances; or

(II) for the lead agency or a participating agency to fulfill its responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in a timely manner.

(C) METHODOLOGIES.—The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a 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.

(g) COORDINATION AND SCHEDULING.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—**[**The lead agency**]** *Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, 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. The coordination plan may be incorporated into a memorandum of understanding.

(B) SCHEDULE.—

(i) IN GENERAL.—The lead agency **[**may establish**]** *shall establish* as part of the coordination plan, after consultation with and the concurrence of each participating agency for the project and with the State in which the 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 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 project;

(IV) the overall schedule for and cost of the project; and

(V) the sensitivity of the natural and historic resources that could be affected by the 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 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 the State in which the 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 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.—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.]

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

(A) IN GENERAL.—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 by law, regulation, or Executive order to be made after the date on which the lead agency has issued a categorical exclusion, finding of no significant impact, or record of decision with respect to the project, any such later decision shall be made or completed by the later of—

(i) the date that is 180 days after the lead agency's final decision has been made; or

(ii) the date that is 180 days after the date on which a completed application was submitted for the permit or license.

(B) TREATMENT OF DELAYS.—Following the deadline established by subparagraph (A), 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, and publish on the Department's Internet Web site—

(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

(ii) 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) ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.—

(A) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets

attached to the statement instead of rewriting the draft statement, subject to the condition that the errata sheets—

(i) cite the sources, authorities, and reasons that support the position of the agency; and

(ii) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(B) SINGLE DOCUMENT.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

(i) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

(ii) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.

[(4)**]** *(5)* 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.

(h) 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 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 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 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 project.

(4) ISSUE RESOLUTION.—Any issue resolved by the lead agency and participating agencies may not be reconsidered unless significant new information or circumstances arise.

[(4)**]** *(5)* INTERIM DECISION ON ACHIEVING ACCELERATED DECISIONMAKING.—

(A) IN GENERAL.—Not later than 30 days after the close of the public comment period on a draft environmental impact statement, the Secretary may convene a meeting with the project sponsor, lead agency, resource agencies, and any relevant State agencies to ensure that all parties are on schedule to meet deadlines for decisions to be made regarding the project.

(B) DEADLINES.—The deadlines referred to in subparagraph (A) shall be those established under subsection (g), or any other deadlines established by the lead agency, in consultation with the project sponsor and other relevant agencies.

(C) FAILURE TO ASSURE.—If the relevant agencies cannot provide reasonable assurances that the deadlines described in subparagraph (B) will be met, the Secretary may initiate the issue resolution and referral process described under [paragraph (5) and] *paragraph (6)* before the completion of the record of decision.

[(5)] *(6)* ACCELERATED ISSUE RESOLUTION AND REFERRAL.—

(A) AGENCY ISSUE RESOLUTION MEETING.—

(i) IN GENERAL.—A Federal agency of jurisdiction, project sponsor, or the Governor of a State in which a project is located may request an issue resolution meeting to be conducted by the lead agency.

(ii) ACTION BY LEAD AGENCY.—The lead agency shall convene an issue resolution meeting under clause (i) with the relevant participating agencies and the project sponsor, including the Governor only if the meeting was requested by the Governor, to resolve issues that could—

(I) delay completion of the environmental review process; or

(II) result in denial of any approvals required for the project under applicable laws.

(iii) DATE.—A meeting requested under this subparagraph shall be held by not later than 21 days after the date of receipt of the request for the meeting, unless the lead agency determines that there is good cause to extend the time for the meeting.

(iv) NOTIFICATION.—On receipt of a request for a meeting under this subparagraph, the lead agency shall notify all relevant participating agencies of the request, including the issue to be resolved, and the date for the meeting.

(v) DISPUTES.—If a relevant participating agency with jurisdiction over an approval required for a project under applicable law determines that the relevant information necessary to resolve the issue has not been obtained and could not have been obtained within a reasonable time, but the lead agency disagrees, the resolution of the dispute shall be forwarded to the heads of the relevant agencies for resolution.

(vi) CONVENTION BY LEAD AGENCY.—A lead agency may convene an issue resolution meeting under this subsection at any time without the request of the Federal agency of jurisdiction, project sponsor, or the Governor of a State.

(B) ELEVATION OF ISSUE RESOLUTION.—

(i) IN GENERAL.—If issue resolution is not achieved by not later than 30 days after the date of a relevant meeting under subparagraph (A), the Secretary shall

notify the lead agency, the heads of the relevant participating agencies, and the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor) that an issue resolution meeting will be convened.

(ii) REQUIREMENTS.—The Secretary shall identify the issues to be addressed at the meeting and convene the meeting not later than 30 days after the date of issuance of the notice.

[(C) REFERRAL OF ISSUE RESOLUTION.—

[(i) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.—

[(I) IN GENERAL.—If resolution is not achieved by not later than 30 days after the date of an issue resolution meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

[(II) MEETING.—Not later than 30 days after the date of receipt of a referral from the Secretary under subclause (I), the Council on Environmental Quality shall hold an issue resolution meeting with the lead agency, the heads of relevant participating agencies, and the project sponsor (including the Governor only if an initial request for an issue resolution meeting came from the Governor).

[(ii) REFERRAL TO THE PRESIDENT.—If a resolution is not achieved by not later than 30 days after the date of the meeting convened by the Council on Environmental Quality under clause (i)(II), the Secretary shall refer the matter directly to the President.]

(C) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.—

(i) IN GENERAL.—If issue resolution for a project is not achieved on or before the 30th day after the date of a meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

(ii) MEETING.—Not later than 30 days after the date of receipt of a referral from the Secretary under clause (i), the Council on Environmental Quality shall hold an issue resolution meeting with—

(I) the head of the lead agency;

(II) the heads of relevant participating agencies; and

(III) the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor).

(iii) RESOLUTION.—The Council on Environmental Quality shall work with the lead agency, relevant participating agencies, and the project sponsor until all issues are resolved.

[(6)] *(7)* FINANCIAL PENALTY PROVISIONS.—

(A) IN GENERAL.—A Federal agency of jurisdiction over an approval required for a project under applicable laws

shall complete any required approval on an expeditious basis using the shortest existing applicable process.

(B) FAILURE TO DECIDE.—

(i) IN GENERAL.—If an agency described in subparagraph (A) fails to render a decision under any Federal law relating to a project that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, or other approval by the date described in clause (ii), an amount of funding equal to the amounts specified in subclause (I) or (II) shall be rescinded from the applicable office of the head of the agency, or equivalent office to which the authority for rendering the decision has been delegated by law by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C)—

(I) $20,000 for any project for which an annual financial plan [under section 106(i) is required] *is required under subsection (h) or (i) of section 106*; or

(II) $10,000 for any other project requiring preparation of an environmental assessment or environmental impact statement.

(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—

(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) LIMITATIONS.—

(i) IN GENERAL.—No rescission of funds under subparagraph (B) relating to an individual project shall exceed, in any fiscal year, an amount equal to 2.5 percent of the funds made available for the applicable agency office.

(ii) FAILURE TO DECIDE.—The total amount rescinded in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 7 percent of the funds made available for the applicable agency office for that fiscal year.

(D) NO FAULT OF AGENCY.—A rescission of funds under this paragraph shall not be made if the lead agency for the project certifies that—

(i) the agency has not received necessary information or approvals from another entity, such as the project sponsor, in a manner that affects the ability of the agency to meet any requirements under State, local, or Federal law; or

(ii) significant new information or circumstances, including a major modification to an aspect of the

project, requires additional analysis for the agency to make a decision on the project application.

(E) LIMITATION.—The Federal agency with jurisdiction for the decision from which funds are rescinded pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

(F) AUDITS.—In any fiscal year in which any funds are rescinded from a Federal agency pursuant to this paragraph, the Inspector General of that agency shall—

(i) conduct an audit to assess compliance with the requirements of this paragraph; and

(ii) not later than 120 days after the end of the fiscal year during which the rescission occurred, 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 describing the reasons why the transfers were levied, including allocations of resources.

(G) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

[(7)] *(8)* EXPEDIENT DECISIONS AND REVIEWS.—To ensure that Federal environmental decisions and reviews are expeditiously made—

(A) adequate resources made available under this title shall be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are completed on an expeditious basis and that the shortest existing applicable process under that Act is implemented; and

(B) the President shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, not less frequently than once every 120 days after the date of enactment of the MAP-21, a report on the status and progress of the following projects and activities funded under this title with respect to compliance with applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

(i) Projects and activities required to prepare an annual financial plan under section 106(i).

(ii) A sample of not less than 5 percent of the projects requiring preparation of an environmental impact statement or environmental assessment in each State.

(i) 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) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

[(1) IN GENERAL.—For a project that is subject to the environmental review process established under this section and for which funds are made available to a State under this title or chapter 53 of title 49, the Secretary may approve a request

by the State to provide funds so made available under this title or such chapter 53 to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the 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 project planning and delivery for projects in that State.]

(1) IN GENERAL.—

(A) AUTHORITY TO PROVIDE FUNDS.—The Secretary may allow a public entity receiving financial assistance from the Department of Transportation under this title or chapter 53 of title 49 to provide funds to Federal agencies (including the Department), State agencies, and Indian tribes participating in the environmental review process for the project or program.

(B) USE OF FUNDS.—Funds referred to in subparagraph (A) may be provided only to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval, and consultation processes for the project or program.

(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, *activities directly related to the environmental review process,* dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

(3) USE OF FEDERAL LANDS HIGHWAY FUNDS.—The Secretary may also use funds made available under section 204 for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

(4) 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.

(5) 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.

[(6) MEMORANDUM OF UNDERSTANDING.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under paragraphs (1) and (2), the affected Federal agency and the State agency shall enter into a memorandum of understanding that establishes the projects and priorities to be addressed by the use of the funds.]

(6) AGREEMENT.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected agency under paragraphs (1) and (2), the affected agency and the requesting public entity shall enter into an agreement that establishes the projects and priorities to be addressed by the use of the funds.

(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.

(l) 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 150 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 150 days after the date of publication of a notice in the Federal Register announcing such action.

(m) ENHANCED TECHNICAL ASSISTANCE AND ACCELERATED PROJECT COMPLETION.—

(1) DEFINITION OF COVERED PROJECT.—In this subsection, the term "covered project" means a project—

(A) that has an ongoing environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) for which at least 2 years, beginning on the date on which a notice of intent is issued, have elapsed without the issuance of a record of decision.

(2) TECHNICAL ASSISTANCE.—At the request of a project sponsor or the Governor of a State in which a project is located, the Secretary shall provide additional technical assistance to re-

solve for a covered project any outstanding issues and project delay, including by—

(A) providing additional staff, training, and expertise;

(B) facilitating interagency coordination;

(C) promoting more efficient collaboration; and

(D) supplying specialized onsite assistance.

(3) SCOPE OF WORK.—

(A) IN GENERAL.—In providing technical assistance for a covered project under this subsection, the Secretary shall establish a scope of work that describes the actions that the Secretary will take to resolve the outstanding issues and project delays, including establishing a schedule under subparagraph (B).

(B) SCHEDULE.—

(i) IN GENERAL.—The Secretary shall establish and meet a schedule for the completion of any permit, approval, review, or study, required for the covered project by the date that is not later than 4 years after the date on which a notice of intent for the covered project is issued.

(ii) INCLUSIONS.—The schedule under clause (i) shall—

(I) comply with all applicable laws;

(II) require the concurrence of the Council on Environmental Quality and each participating agency for the project with the State in which the project is located or the project sponsor, as applicable; and

(III) reflect any new information that becomes available and any changes in circumstances that may result in new significant impacts that could affect the timeline for completion of any permit, approval, review, or study required for the covered project.

(4) CONSULTATION.—In providing technical assistance for a covered project under this subsection, the Secretary shall consult, if appropriate, with resource and participating agencies on all methods available to resolve the outstanding issues and project delays for a covered project as expeditiously as possible.

(5) ENFORCEMENT.—

(A) IN GENERAL.—All provisions of this section shall apply to this subsection, including the financial penalty provisions under subsection (h)(6).

(B) RESTRICTION.—If the Secretary enforces this subsection under subsection (h)(6), the Secretary may use a date included in a schedule under paragraph (3)(B) that is created pursuant to and is in compliance with this subsection in lieu of the dates under subsection (h)(6)(B)(ii).

§ 140. Nondiscrimination

(a) Prior to approving any programs for projects as provided for in section 135, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex. The

Secretary shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary if necessary to ensure equal employment opportunity, shall require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed, national origin, or sex. In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program. The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary of Transportation shall deem necessary to carry out the equal employment opportunity program required hereunder.

(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer highway surface transportation and technology training, including skill improvement programs, and to develop and fund summer transportation institutes. From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 6101(b) to (d) of title 41 shall not be not be applicable to contracts and agreements made under the authority herein granted to the Secretary. Notwithstanding any other provision of law, not to exceed 1/2 of 1 percent of funds apportioned to a State for the ⟦surface transportation program⟧ *surface transportation block grant program* under section 104(b) may be available to carry out this subsection upon request of the State transportation department to the Secretary.

(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. From administrative

funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 6101(b) to (d) of title 41 shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of section 3106 of title 41.

(d) INDIAN EMPLOYMENT.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations. The Secretary shall cooperate with Indian tribal governments and the States to implement this subsection.

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§ 142. Public transportation

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating buses on Federal-aid highways for the transportation of passengers, so as to increase the traffic capacity of the Federal-aid highways for the movement of persons, the Secretary may approve as a project on any Federal-aid highway 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 or natural gas vehicle refueling 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).

(2) In addition to the projects under paragraph (1), the Secretary may approve payment from sums apportioned under section 104(b)(2) for carrying out any capital transit project eligible for assistance under chapter 53 of title 49, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation.

(b) Sums apportioned in accordance with section 104(b)(1) shall be available to finance the Federal share of projects for exclusive or preferential high occupancy vehicle, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection shall not be subject to the third sentence of section 109(b) of this title.

(c) ACCOMMODATION OF OTHER MODES OF TRANSPORTATION.—The Secretary may approve as a project on any Federal-aid highway for payment from sums apportioned under section 104(b) modifications to existing highways eligible under the program that is the source of the funds on such highway necessary to accommodate other modes of transportation if such modifications will not adversely affect automotive safety.

(d) METROPOLITAN PLANNING.—Any project carried out under this section in an urbanized area shall be subject to the metropolitan planning requirements of section 134.

(e)(1) For all purposes of this title, a project authorized by subsection (a)(1) of this section shall be deemed to be a highway project.

(2) Projects authorized by subsection (a)(2) shall be subject to, and governed in accordance with, all provisions of this title applicable to projects on the [surface transportation program] *surface transportation block grant program*, except to the extent determined inconsistent by the Secretary.

(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided in section 120 of this title.

(f) AVAILABILITY OF RIGHTS-OF-WAY.—In any case where sufficient land or air space exists within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the Secretary shall authorize a State to make such lands, air space, and rights-of-way available with or without charge to a publicly or privately owned authority or company or any other person for such purposes if such accommodation will not adversely affect automotive safety.

(g) The provision of assistance under subsection (a)(2) shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any non-supervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.

(h) Funds available for expenditure to carry out the purposes of subsection (a)(2) of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to chapter 53 of title 49.

(i) The provisions of section 5323(a)(1)(D) of title 49 shall apply in carrying out subsection (a)(2) of this section.

§ 143. Highway use tax evasion projects

(a) STATE DEFINED.—In this section, the term "State" means the 50 States and the District of Columbia.

(b) PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out highway use tax evasion projects in accordance with this subsection.

(2) FUNDING.—

[(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary shall deduct such sums as are necessary, not to exceed $10,000,000 for each of fiscal years 2013 and 2014, to carry out this section.]

(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary may deduct such sums as are necessary, not to exceed $6,000,000 for each of fiscal years 2016 through 2021, to carry out this section.

(B) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary, except that of funds so made available for each fiscal year, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.

(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Except as otherwise provided in this section, the Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

(4) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only—

(A) to expand efforts to enhance motor fuel tax enforcement;

(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

(C) to supplement motor fuel tax examinations and criminal investigations;

(D) to develop automated data processing tools to monitor motor fuel production and sales;

(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

(F) to reimburse State expenses that supplement existing fuel tax compliance efforts;

(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes;

(H) to support efforts between States and Indian tribes to address issues relating to State motor fuel taxes; and

(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.

(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

(7) PERIOD OF AVAILABILITY.—Funds authorized to carry out this section 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.

(8) USE OF SURFACE TRANSPORTATION *BLOCK GRANT* PROGRAM FUNDING.—In addition to funds made available to carry out this section, a State may expend up to 1/4 of 1 percent of the funds apportioned to the State for a fiscal year under section 104(b)(2) on initiatives to halt the evasion of payment of motor fuel taxes.

(9) REPORTS.—The Commissioner of the Internal Revenue Service and each State shall submit to the Secretary*, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public*

Works of the Senate an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the estimated annual yield from such projects, examinations, and criminal investigations.

(c) EXCISE TAX FUEL REPORTING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of the SAFETEA-LU, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of—

(A) the additional development of capabilities needed to support new reporting requirements and databases established under such Act and the American Jobs Creation Act of 2004 (Public Law 108-357), and such other reporting requirements and database development as may be determined by the Secretary, in consultation with the Commissioner of the Internal Revenue Service, to be useful in the enforcement of fuel excise taxes, including provisions recommended by the Fuel Tax Enforcement Advisory Committee,

(B) the completion of requirements needed for the electronic reporting of fuel transactions from carriers and terminal operators,

(C) the operation and maintenance of an excise summary terminal activity reporting system and other systems used to provide strategic analyses of domestic and foreign motor fuel distribution trends and patterns,

(D) the collection, analysis, and sharing of information on fuel distribution and compliance or noncompliance with fuel taxes, and

(E) the development, completion, operation, and maintenance of an electronic claims filing system and database and an electronic database of heavy vehicle highway use payments.

(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

(A) the Internal Revenue Service shall develop and maintain any system under paragraph (1) through contracts,

(B) any system under paragraph (1) shall be under the control of the Internal Revenue Service, and

(C) any system under paragraph (1) shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

(3) FUNDING.—Of the amounts made available to carry out this section for each fiscal year, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the systems under paragraph (1) in accordance with this subsection.

(4) REPORTS.—Not later than September 30 of each year, the Commissioner of the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this subsection.

§ 144. National bridge and tunnel inventory and inspection standards

(a) FINDINGS AND DECLARATIONS.—

(1) FINDINGS.—Congress finds that—

(A) the condition of the bridges of the United States has improved since the date of enactment of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 107), yet continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on which the economy of the United States relies; and

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

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

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

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

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

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

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

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

(1) inventory all highway bridges on public roads, on and off Federal-aid highways, including tribally owned and Federally owned bridges, that are bridges 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) classify the bridges according to serviceability, safety, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished;

(4) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation; and

(5) determine the cost of replacing each structurally deficient bridge identified under this subsection with a comparable facility or the cost of rehabilitating the bridge.

(c) GENERAL BRIDGE AUTHORITY.—

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

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

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

(B) are—

(i) not tidal; or

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

(d) INVENTORY UPDATES AND REPORTS.—

(1) IN GENERAL.—The Secretary shall—

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

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

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

(3) GUIDANCE.—The Secretary shall provide guidance to States and Federal agencies for implementation of this subsection, while respecting the existing inspection schedule of each State.

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

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

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

(e) BRIDGES WITHOUT TAXING POWERS.—

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

(2) INSUFFICIENT ASSETS.—Before authorizing an expenditure of funds under this subsection, the Secretary shall determine

that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the bridge project or activity eligible for assistance under this title.

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

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

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

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

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

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

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

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

(g) HISTORIC BRIDGES.—

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

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

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

(4) ELIGIBILITY.—

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

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

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

private entity if the State, locality, or responsible entity enters into an agreement—

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

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

(6) COSTS INCURRED.—

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

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

(h) NATIONAL BRIDGE AND TUNNEL INSPECTION STANDARDS.—

(1) REQUIREMENT.—

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

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

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

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

(B) establish the maximum time period between inspections;

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

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

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

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

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

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

(A) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures to conduct reviews of State compliance with—

(i) the standards established under this subsection; and

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

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

(i) critical findings relating to structural or 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).

(4) REVIEWS OF STATE COMPLIANCE.—

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

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

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

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

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

(II) resolving the issues of noncompliance not later than 45 days after the date of notification.

(5) PENALTY FOR NONCOMPLIANCE.—

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

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

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

(ii) require approval by the Secretary.

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

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

(B) the frequency of inspection.

(7) RISK-BASED APPROACH.—In carrying out the revisions required by paragraph (6), the Secretary shall consider a risk-

based approach to determining the frequency of bridge inspections.

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

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

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

(j) BUNDLING OF BRIDGE PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to save costs and time by encouraging States to bundle multiple bridge projects as 1 project.

(2) ELIGIBLE ENTITY DEFINED.—In this subsection, the term "eligible entity" means an entity eligible to carry out a bridge project under section 119 or 133.

(3) BUNDLING OF BRIDGE PROJECTS.—An eligible entity may bundle 2 or more similar bridge projects that are—

(A) eligible projects under section 119 or 133;

(B) included as a bundled project in a transportation improvement program under section 134(j) or a statewide transportation improvement program under section 135, as applicable; and

(C) awarded to a single contractor or consultant pursuant to a contract for engineering and design or construction between the contractor and an eligible entity.

(4) ITEMIZATION.—Notwithstanding any other provision of law (including regulations), a bundling of bridge projects under this subsection may be listed as—

(A) 1 project for purposes of sections 134 and 135; and

(B) a single project within the applicable bundle.

(5) FINANCIAL CHARACTERISTICS.—Projects bundled under this subsection shall have the same financial characteristics, including—

(A) the same funding category or subcategory; and

(B) the same Federal share.

(6) ENGINEERING COST REIMBURSEMENT.—The provisions of section 102(b) do not apply to projects carried out under this subsection.

[(j)**]** *(k)* 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 section 104(b)(1) and **[**104(b)(3)**]** *104(b)(2)*;

(3) an Indian tribe may use funds made available to the Indian tribe under section 202; and

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

* * * * * * *

§ 147. Construction of ferry boats and ferry terminal facilities

(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats, ferry terminals, and ferry maintenance facilities under this section shall be 80 percent.

(c) DISTRIBUTION OF FUNDS.—Of the amounts made available to ferry systems and public entities responsible for developing ferries under this section for a fiscal year, 100 percent shall be allocated in accordance with the formula set forth in subsection (d).

(d) FORMULA.—Of the amounts allocated pursuant to subsection (c)—

(1) 20 percent shall be allocated among eligible entities in the proportion that—

(A) the number of ferry passengers carried by each ferry system in the most recent fiscal year; bears to

(B) the number of ferry passengers carried by all ferry systems in the most recent fiscal year;

(2) 45 percent shall be allocated among eligible entities in the proportion that—

(A) the number of vehicles carried by each ferry system in the most recent fiscal year; bears to

(B) the number of vehicles carried by all ferry systems in the most recent fiscal year; and

(3) 35 percent shall be allocated among eligible entities in the proportion that—

(A) the total route miles serviced by each ferry system; bears to

(B) the total route miles serviced by all ferry systems.

(e) 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 $67,000,000 for each of fiscal years [2013 and 2014] *2016 through 2021*.

(f) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b), funds made available to carry out this section shall remain available until expended.

(g) 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.

(h) REDISTRIBUTION OF UNOBLIGATED AMOUNTS.—The Secretary shall—

(1) withdraw amounts allocated to eligible entities under this section that remain unobligated by the end of the third fiscal year following the fiscal year for which the amounts were allocated; and

(2) in the fiscal year beginning after a fiscal year in which a withdrawal is made under paragraph (1), redistribute the funds withdrawn, in accordance with the formula specified under subsection (d), among eligible entities with respect to which no amounts were withdrawn under paragraph (1).

§ 148. Highway safety improvement program

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

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

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

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

(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

(A) IN GENERAL.—The term "highway safety improvement project" means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

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

(ii) address a highway safety problem.

(B) INCLUSIONS.—The term "highway safety improvement project" [includes, but is not limited to,] *only includes* a project for 1 or more of the following:

(i) An intersection safety improvement.

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

(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

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

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

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

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

(viii) Construction of a traffic calming feature.

(ix) Elimination of a roadside hazard.

(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.

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

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

(xiii) Transportation safety planning.

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

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

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

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

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

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

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

(xxi) A road safety audit.

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

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

(xxiv) Systemic safety improvements.

(xxv) Installation of vehicle-to-infrastructure communication equipment.

(xxvi) Pedestrian hybrid beacons.

(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands.

(xxviii) A physical infrastructure safety project not described in clauses (i) through (xxvii).

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

(6) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term "project to maintain minimum levels of retroreflectivity" means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

(7) ROAD SAFETY AUDIT.—The term "road safety audit" means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

(8) ROAD USERS.—The term "road user" means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

(9) SAFETY DATA.—

(A) IN GENERAL.—The term "safety data" means crash, roadway, and traffic data on a public road.

(B) INCLUSION.—The term "safety data" includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

[(10) SAFETY PROJECT UNDER ANY OTHER SECTION.—

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

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

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

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

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

[(11)] *(10)* STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "State highway safety improvement program" means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).

[(12)] *(11)* STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term "State strategic highway safety plan" means a comprehensive plan, based on safety data, developed by a State transportation department that—

(A) is developed after consultation with—

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

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

(iii) representatives of major modes of transportation;

(iv) State and local traffic enforcement officials;

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

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

(vii) motor vehicle administration agencies;

(viii) county transportation officials;

(ix) State representatives of nonmotorized users; and

(x) other major Federal, State, tribal, and local safety stakeholders;

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

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

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

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

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

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

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

(I) is updated and submitted to the Secretary for approval as required under subsection (d)(2).

[(13)**]** *(12)* SYSTEMIC SAFETY IMPROVEMENT.—The term "systemic safety improvement" means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

(b) PROGRAM.—

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

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

(c) ELIGIBILITY.—

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

(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in **[**subsections (a)(12)**]** *subsections (a)(11)* and (d);

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

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

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

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

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

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

(iii) to link State data systems, including traffic records, with other data systems within the State;

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

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

(vi) to improve the collection of data on non-motorized crashes;

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

(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users;

(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of crashes (including crash rates), fatalities, serious injuries, traffic volume levels, and other relevant data;

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

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

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

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

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

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

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

(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

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

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

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

(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii)

in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels; and

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

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

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

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

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

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

(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

(1) ESTABLISHMENT OF REQUIREMENTS.—

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

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

(i) the findings of road safety audits;

(ii) the locations of fatalities and serious injuries;

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

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

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

(vi) the cost-effectiveness of improvements;

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

(viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

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

(A) IN GENERAL.—Each State shall—

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

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

(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and [subsection (a)(12)] *subsection (a)(11)*; and

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

(3) PENALTY FOR FAILURE TO HAVE AN APPROVED UPDATED STRATEGIC HIGHWAY SAFETY PLAN.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the fiscal year beginning after the date of establishment of the requirements under paragraph (1), the State shall not be eligible to receive any additional limitation pursuant to the redistribution of the limitation on obligations for Federal- aid highway and highway safety construction programs that occurs after August 1 for each succeeding fiscal year until the fiscal year during which the plan is approved.

(e) ELIGIBLE PROJECTS.—

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

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

(B) as provided in subsection (g); or

(C) 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.

(2) USE OF OTHER FUNDING FOR SAFETY.—

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

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

(f) DATA IMPROVEMENT.—

(1) DEFINITION OF DATA IMPROVEMENT ACTIVITIES.—In this subsection, the following definitions apply:

(A) IN GENERAL.—The term "data improvement activities" means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

(B) INCLUSIONS.—The term "data improvement activities" includes a project or activity—

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

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

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

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

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

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

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

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

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

(3) PROCESS.—The Secretary shall establish a process to allow a State to cease to collect the subset referred to in paragraph (2)(A) for public roads that are gravel roads or otherwise unpaved if—

(A) the State does not use funds provided to carry out this section for a project on such roads until the State completes a collection of the required model inventory of roadway elements for the roads; and

(B) the State demonstrates that the State consulted with affected Indian tribes before ceasing to collect data with respect to such roads that are included in the National Tribal Transportation Facility Inventory.

(4) RULE OF CONSTRUCTION.—Nothing in paragraph (3) may be construed to allow a State to cease data collection related to serious injuries or fatalities.

(g) SPECIAL RULES.—

(1) HIGH-RISK RURAL ROAD SAFETY.—[If the fatality rate]

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

(B) FATALITIES EXCEEDING THE MEDIAN RATE.—If the fatality rate on rural roads in a State, for the most recent 2-year period for which data is available, is more than the median fatality rate for rural roads among all States for such 2-year period, the State shall be required to demonstrate, in the subsequent State strategic highway safety plan of the State, strategies to address fatalities and achieve safety improvements on high risk rural roads.

(2) OLDER DRIVERS.—If traffic fatalities and serious injuries per capita for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be required to include, in the subsequent Strategic Highway Safety Plan of the State,

strategies to address the increases in those rates, taking into account the recommendations included in the publication of the Federal Highway Administration entitled "Highway Design Handbook for Older Drivers and Pedestrians" (FHWA-RD-01-103), and dated May 2001, or as subsequently revised and updated.

(h) 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 have contributed to reducing—

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

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

(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

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

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

(A) the website of the Department; and

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

(4) DISCOVERY AND ADMISSION INTO 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 relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

(i) STATE PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State established under section 150(d) by the date that is 2 years after the date of the establishment of the performance targets, the State shall—

(1) use obligation authority equal to the apportionment of the State for the prior year under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State; and

(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State, an implementation plan that—

(A) identifies roadway features that constitute a hazard to road users;

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

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

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

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

(j) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.

§ 149. Congestion mitigation and air quality improvement program

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

(b) ELIGIBLE PROJECTS.—Except as provided in subsection (d), a State may obligate funds apportioned to it under section 104(b)(4) 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, add turning lanes, 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, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;

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

(7) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ridesharing, carsharing, alternative work hours, and pricing; **[**or**]**

(8) 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) verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) 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[.]*; or*

(9) if the project or program is for the installation of vehicle-to-infrastructure communication equipment.

(c) SPECIAL RULES.—

(1) PROJECTS FOR PM-10 NONATTAINMENT AREAS.—A State may obligate funds apportioned to the State under section 104(b)(4) 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.

(2) ELECTRIC VEHICLE AND NATURAL GAS VEHICLE INFRASTRUCTURE.—A State may obligate funds apportioned under section 104(b)(4) for a project or program to establish electric vehicle charging stations or natural gas vehicle refueling stations for the use of battery powered or natural gas fueled trucks or other motor vehicles at any location in the State except that such stations may not be established or supported where commercial establishments serving motor vehicle users are prohibited by section 111 of title 23, United States Code.

(3) HOV FACILITIES.—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.

[(d) STATES FLEXIBILITY.—

[(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(4) for any project in the State that—

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

[(B) is eligible under the surface transportation program under section 133.

[(2) STATES WITH A NONATTAINMENT AREA.—

[(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP-21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP-21, the State may use for any project that is eligible under the surface transportation program under section 133 an amount of funds apportioned to such State under section 104(b)(4) that is equal to the product obtained by multiplying—

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

[(ii) the ratio calculated under subparagraph (B).

[(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as the proportion that—

[(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP-21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP-21t; bears to

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

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

(d) STATES FLEXIBILITY.—

(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(4) for any project in the State that—

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

(B) is eligible under the surface transportation block grant program under section 133.

(2) STATES WITH A NONATTAINMENT AREA.—

(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21, the State may use, for any project that would otherwise be eligible under subsection (b) if the project were carried out in a nonattainment or maintenance area or is eligible under the surface transportation block grant program under section 133, an amount of funds apportioned to such State under section 104(b)(4) that is equal to the product obtained by multiplying—

(i) the amount apportioned to such State under section 104(b)(4) (excluding the amounts reserved for obligation under subsection (k)(1)); by

(ii) the ratio calculated under subparagraph (B).

(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as the proportion that—

(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP–21; bears to

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

(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify, in a manner consistent with the approach that was in effect on the day before the date of enactment of MAP–21, the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.

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

(f) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

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

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

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

(B) cost sharing of any project expense;

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

(D) any other form of participation approved by the Secretary.

(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(4) to an entity described in paragraph (1).

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

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

(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally

fueled vehicle, that would otherwise be borne by a private party; and

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

(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

(g) 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 CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for PM2.5 under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) to projects that are proven to reduce PM2.5, including diesel retrofits.]

(3) PRIORITY CONSIDERATION.—

(A) IN GENERAL.—In distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) in areas designated as nonattainment or maintenance for PM2.5 under the Clean Air Act (42 U.S.C. 7401 et seq.) and where regional motor vehicle emissions are not an insignificant contributor to the air quality problem for PM2.5, States and metropolitan planning organizations shall give priority to projects, including diesel retrofits, that are proven to reduce direct emissions of PM2.5.

(B) USE OF FUNDING.—To the maximum extent practicable, funding used in an area described in subparagraph (A) shall be used on the most cost-effective projects and pro-

grams that are proven to reduce directly emitted fine particulate matter.

(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).

(h) 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.

(i) EVALUATION AND ASSESSMENT OF PROJECTS.—

(1) DATABASE.—

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

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

(2) COST EFFECTIVENESS.—

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

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

(C) USE OF TABLE.—States and metropolitan planning organizations shall consider the information in the table when selecting projects or developing performance plans under subsection (l).

(j) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

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

(2) APPLICABILITY.—If an assessment described in paragraph (1) successfully demonstrates an emissions reduction, all projects included in such assessment shall be eligible for obligation under this section without further demonstration of

emissions reduction of individual projects included in such assessment.

(k) PRIORITY FOR USE OF FUNDS IN PM2.5 AREAS.—

(1) IN GENERAL.—For any State that has a nonattainment or maintenance area for fine particulate matter, an amount equal to 25 percent of the funds apportioned to each State under section 104(b)(4) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that reduce [such fine particulate] *directly emitted fine particulate* matter emissions in such area, including diesel retrofits.

(2) CONSTRUCTION EQUIPMENT AND VEHICLES.—In order to meet the requirements of paragraph (1), a State or metropolitan planning organization may elect to obligate funds to install diesel emission control technology on nonroad diesel equipment or on-road diesel equipment that is operated on a highway construction project within a PM2.5 nonattainment or maintenance area.

(3) PM2.5 NONATTAINMENT AND MAINTENANCE IN LOW POPULATION DENSITY STATES.—

(A) EXCEPTION.—For any State with a population density of 80 or fewer persons per square mile of land area, based on the most recent decennial census, subsection (g)(3) and paragraphs (1) and (2) of this subsection do not apply to a nonattainment or maintenance area in the State if—

(i) the nonattainment or maintenance area does not have projects that are part of the emissions analysis of a metropolitan transportation plan or transportation improvement program; and

(ii) regional motor vehicle emissions are an insignificant contributor to the air quality problem for PM2.5 in the nonattainment or maintenance area.

(B) CALCULATION.—If subparagraph (A) applies to a nonattainment or maintenance area in a State, the percentage of the PM2.5 set aside under paragraph (1) shall be reduced for that State proportionately based on the weighted population of the area in fine particulate matter nonattainment.

(l) PERFORMANCE PLAN.—

(1) IN GENERAL.—Each metropolitan planning organization serving a transportation management area (as defined in section 134) with a population over 1,000,000 people representing a nonattainment or maintenance area shall develop a performance plan that—

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

(B) describes progress made in achieving the *emission and congestion reduction* performance targets described in section 150(d); and

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

(2) UPDATED PLANS.—Performance plans shall be updated biennially and include a separate report that assesses the progress of the program of projects under the previous plan in achieving the air quality and traffic congestion targets of the previous plan.

(m) OPERATING ASSISTANCE.—A State may obligate funds apportioned under section 104(b)(2) in an area of such State that is otherwise eligible for obligations of such funds for operating costs under chapter 53 of title 49 or on a system for which CMAQ funding was made available, obligated or expended in fiscal year 2012, and shall have no imposed time limitation.

§ 150. National goals and performance management measures

(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

(3) CONGESTION REDUCTION.—To achieve a significant reduction in congestion on the National Highway System.

(4) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

(5) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

(6) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

(7) REDUCED PROJECT DELIVERY DELAYS.—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.

(8) INTEGRATED ECONOMIC DEVELOPMENT.—To improve road conditions in economically distressed urban communities and increase access to jobs, markets, and economic opportunities for people who live in such communities.

(c) ESTABLISHMENT OF PERFORMANCE MEASURES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of the MAP-21, the Secretary, in consultation with State departments of transportation, metropolitan planning organizations, and other stakeholders, shall promulgate a rulemaking that establishes performance measures and standards.

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

(A) provide States, metropolitan planning organizations, and other stakeholders not less than 90 days to comment on any regulation proposed by the Secretary under that paragraph;

(B) take into consideration any comments relating to a proposed regulation received during that comment period; and

(C) limit performance measures only to those described in this subsection.

(3) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out section 119, the Secretary shall establish—

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

(ii) measures for States to use to assess—

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

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

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

(IV) the performance of the Interstate System; and

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

(iii) minimum levels for the condition of pavement on the Interstate System, only for the purposes of carrying out section 119(f)(1); and

(iv) the data elements that are necessary to collect and maintain standardized data to carry out a performance- based approach.

(B) REGIONS.—In establishing minimum condition levels under subparagraph (A)(iii), if the Secretary determines that various geographic regions of the United States experience disparate factors contributing to the condition of pavement on the Interstate System in those regions, the Secretary may establish different minimum levels for each region**[**;**]**.

(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the purpose of carrying out section 148, the Secretary shall establish measures for States to use to assess—

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

(B) the number of serious injuries and fatalities.

(5) CONGESTION MITIGATION AND AIR QUALITY PROGRAM.—For the purpose of carrying out section 149, the Secretary shall establish measures for States to use to assess—

(A) traffic congestion; and

(B) on-road mobile source emissions.

(6) NATIONAL FREIGHT MOVEMENT.—The Secretary shall establish measures for States to use to assess freight movement on the Interstate System.

(7) INTEGRATED ECONOMIC DEVELOPMENT.—The Secretary shall establish measures for States to use to assess the conditions, accessibility, and reliability of roads in economically distressed urban communities.

(d) ESTABLISHMENT OF PERFORMANCE TARGETS.—

(1) IN GENERAL.—Not later than 1 year after the Secretary has promulgated the final rulemaking under subsection (c), each State shall set performance targets that reflect the measures identified in paragraphs (3), (4), (5), [and (6)] *(6), and (7)* of subsection (c).

(2) DIFFERENT APPROACHES FOR URBAN AND RURAL AREAS.—In the development and implementation of any performance target, a State may, as appropriate, provide for different performance targets for urbanized and rural areas.

(e) REPORTING ON PERFORMANCE TARGETS.—Not later than 4 years after the date of enactment of the MAP-21 and biennially thereafter, a State shall submit to the Secretary a report that describes—

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

(2) the effectiveness of the investment strategy document in the State asset management plan for the National Highway System;

(3) progress in achieving performance targets identified under subsection (d); and

(4) the ways in which the State is addressing congestion at freight bottlenecks, including those identified in the National Freight Strategic Plan, within the State.

§ 151. National electric vehicle charging, hydrogen, and natural gas fueling corridors

(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, the Secretary shall designate national electric vehicle charging, hydrogen, and natural gas fueling corridors that identify the near- and long-term need for, and location of, electric vehicle charging infrastructure, hydrogen infrastructure, and natural gas fueling infrastructure at strategic locations along major national highways to improve the mobility of passenger and commercial vehicles that employ electric, hydrogen fuel cell, and natural gas fueling technologies across the United States.

(b) DESIGNATION OF CORRIDORS.—In designating the corridors under subsection (a), the Secretary shall—

(1) solicit nominations from State and local officials for facilities to be included in the corridors;

(2) incorporate existing electric vehicle charging, hydrogen fueling stations, and natural gas fueling corridors designated by a State or group of States; and

(3) consider the demand for, and location of, existing electric vehicle charging, hydrogen fueling stations, and natural gas fueling infrastructure.

(c) STAKEHOLDERS.—In designating corridors under subsection (a), the Secretary shall involve, on a voluntary basis, stakeholders that include—

(1) the heads of other Federal agencies;

(2) State and local officials;

(3) representatives of—

(A) energy utilities;

(B) the electric, fuel cell electric, and natural gas vehicle industries;

(C) the freight and shipping industry;

(D) clean technology firms;

(E) the hospitality industry;

(F) the restaurant industry;

(G) highway rest stop vendors; and

(H) industrial gas and hydrogen manufacturers; and

(4) such other stakeholders as the Secretary determines to be necessary.

(d) REDESIGNATION.—Not later than 5 years after the date of establishment of the corridors under subsection (a), and every 5 years thereafter, the Secretary shall update and redesignate the corridors.

(e) REPORT.—During designation and redesignation of the corridors under this section, the Secretary shall issue a report that—

(1) identifies electric vehicle charging, hydrogen infrastructure, and natural gas fueling infrastructure and standardization needs for electricity providers, industrial gas providers, natural gas providers, infrastructure providers, vehicle manufacturers, electricity purchasers, and natural gas purchasers; and

(2) establishes an aspirational goal of achieving strategic deployment of electric vehicle charging, hydrogen infrastructure, and natural gas fueling infrastructure in those corridors by the end of fiscal year 2021.

* * * * * * *

§ 154. Open container requirements

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

(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" has the meaning given the term in section 158(c).

(2) 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 exclusively on a rail or rails.

(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term "open alcoholic beverage container" means any bottle, can, or other receptacle—

(A) that contains any amount of alcoholic beverage; and

(B)(i) that is open or has a broken seal; or

(ii) the contents of which are partially removed.

(4) PASSENGER AREA.—The term "passenger area" shall have the meaning given the term by the Secretary by regulation.

(b) OPEN CONTAINER LAWS.—

(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle

(including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—

(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

(c) 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 an open container law described in subsection (b), 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; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) FISCAL YEAR 2012 AND THEREAFTER.—

(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1) and paragraph (3).

(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

(ii) release the reserved funds identified by the State as described in paragraph (3).

(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—A State may elect to use all or a portion of the funds [transferred] *reserved* under paragraph (2) for activities eligible under section 148.

(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.

(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred *or released* under paragraph (2) may be derived from the following:

(A) The apportionment of the State [under section 104(b)(l)] *under section 104(b)(1)*.

(B) The apportionment of the State under section 104(b)(2).

(6) TRANSFER OF OBLIGATION AUTHORITY.—

(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that—

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

* * * * * * *

§ 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) ALCOHOL CONCENTRATION.—The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

(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.

(4) REPEAT INTOXICATED DRIVER LAW.—The term "repeat intoxicated driver law" means a State law*, or a combination of State laws,* 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 suspension of all driving privileges for not less than 1 year; or

[(ii) a suspension of unlimited driving privileges for 1 year, allowing for the reinstatement of limited driving privileges subject to restrictions and limited exemptions as established by State law, if an ignition interlock device is installed for not less than 1 year on each of the motor vehicles owned or operated, or both, by the individual;**]**

(A) receive, for not less than 1 year—

(i) a suspension of all driving privileges;

(ii) a restriction on driving privileges that limits the individual to operating only motor vehicles with an ignition interlock system installed (allowing for limited exceptions for circumstances when the individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual); or

(iii) a combination of both clauses (i) and (ii);

(B) be subject to the impoundment or immobilization of, or the installation of an ignition interlock system on, each motor vehicle owned or operated, or both, by the individual;

(C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

(D) receive—

(i) in the case of the second offense—

(I) an assignment of not less than 30 days of community service; or

(II) not less than 5 days of imprisonment; and

(ii) in the case of the third or subsequent offense—

(I) an assignment of not less than 60 days of community service; or

(II) not less than 10 days of imprisonment.

(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; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) FISCAL YEAR 2012 AND THEREAFTER.—

(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the States will use those reserved funds among the uses authorized under subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

(ii) release the reserved funds identified by the State as described in paragraph (3).

(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—A State may elect to use all or a portion of the funds [transferred] *reserved* under paragraph (2) for activities eligible under section 148.

(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.

(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred *or released* under paragraph (2) may be derived from the following:

(A) The apportionment of the State under section 104(b)(1).

(B) The apportionment of the State under section 104(b)(2).

(6) TRANSFER OF OBLIGATION AUTHORITY.—

(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that—

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

§ 165. Territorial and Puerto Rico highway program

(a) DIVISION OF FUNDS.—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

(1) **[**$150,000,000**]** *$158,000,000* shall be for the Puerto Rico highway program under subsection (b); and

(2) **[**$40,000,000**]** *$42,000,000* shall be for the territorial highway program under subsection (c).

(b) PUERTO RICO HIGHWAY PROGRAM.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

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

(A) APPORTIONMENT.—

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

(I) the aggregate of the amounts for the fiscal year; by (II) the proportion that—

(aa) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

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

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

(C) ELIGIBLE USES OF FUNDS.—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—

(i) at least 50 percent shall be available only for purposes eligible under section 119;

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

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

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

(c) TERRITORIAL HIGHWAY PROGRAM.—

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

(A) American Samoa.

(B) The Commonwealth of the Northern Mariana Islands.

(C) Guam.

(D) The United States Virgin Islands.

(2) PROGRAM.—

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

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

(ii) approved by the Secretary.

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

(3) TECHNICAL ASSISTANCE.—

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

(i) to engage in highway planning;

(ii) to conduct environmental evaluations;

(iii) to administer right-of-way acquisition and relocation assistance programs; and

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

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

(4) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

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

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

(5) AGREEMENT.—

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

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

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

(I) appropriate for each territory; and

(II) approved by the Secretary;

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

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

(B) TECHNICAL ASSISTANCE.—The agreement required by subparagraph (A) shall—

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

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

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

(C) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

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

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

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

(6) ELIGIBLE USES OF FUNDS.—

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

(i) Eligible [surface transportation program] *surface transportation block grant program* projects described in section 133(b).

(ii) Cost-effective, preventive maintenance consistent with section 116(e).

(iii) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

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

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

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

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

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

(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in paragraphs (2), (4), (7),

(8), (14), and (19) of section 133(b)) may not be undertaken on roads functionally classified as local.

§ 166. HOV facilities

(a) IN GENERAL.—

(1) [AUTHORITY OF STATE AGENCIES] *AUTHORITY OF PUBLIC AUTHORITIES.*— A[State agency] *public authority* that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

(2) OCCUPANCY REQUIREMENT.—Except as otherwise provided by this section, no fewer than two occupants per vehicle may be required for use of a HOV facility.

(b) EXCEPTIONS.—

(1) IN GENERAL.—Notwithstanding the occupancy requirement of subsection (a)(2), the exceptions in paragraphs (2) through (5) shall apply with respect to a [State agency] *public authority* operating a HOV facility.

(2) MOTORCYCLES AND BICYCLES.—

(A) IN GENERAL.—Subject to subparagraph (B), the [State agency] *public authority* shall allow motorcycles and bicycles to use the HOV facility.

(B) SAFETY EXCEPTION.—

(i) IN GENERAL.—A [State agency] *public authority* may restrict use of the HOV facility by motorcycles or bicycles (or both) if the agency certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

(ii) ACCEPTANCE OF CERTIFICATION.—The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

(3) PUBLIC TRANSPORTATION VEHICLES.—The [State agency] *public authority* may allow public transportation vehicles to use the HOV facility if the agency—

(A) establishes requirements for clearly identifying the vehicles; [and]

(B) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles[.]*; and*

(C) provides equal access for all public transportation vehicles and over-the-road buses.

(4) HIGH OCCUPANCY TOLL VEHICLES.—The [State agency] *public authority* may allow vehicles not otherwise exempt pursuant to this subsection 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—

(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

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

(C) establishes policies and procedures to—

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

(ii) enforce violations of use of the facility.

(5) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

(A) INHERENTLY LOW EMISSION VEHICLE.—Before September 30, [2017] *2021*, the [State agency] *public authority* 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, [2017] *2021*, the [State agency] *public authority* 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) establishes a program that addresses the selection of vehicles under this paragraph; and

(ii) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

(C) AMOUNT OF TOLLS.—Under this paragraph, a [State agency] *public authority* 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) IN GENERAL.—Tolls may be charged under paragraphs (4) and (5) of subsection (b) notwithstanding section 301 and, except as provided in paragraphs (2) and (3), subject to the requirements of section 129.

[(2) HOV FACILITIES ON THE INTERSTATE SYSTEM.—Notwithstanding section 129, tolls may be charged under paragraphs (4) and (5) of subsection (b) on a HOV facility on the Interstate System.]

(1) IN GENERAL.—Notwithstanding section 301, tolls may be charged under paragraphs (4) and (5) of subsection (b), subject to the requirements of section 129.

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

(3) EXEMPTION FROM TOLLS.—In levying tolls on a facility under this section, a public authority may designate classes of vehicles that are exempt from the tolls or charge different toll rates for different classes of vehicles, if equal rates are charged for all public transportation vehicles and over-the-road buses, whether publicly or privately owned.

(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

(1) IN GENERAL.—A [State agency] *public authority* that allows vehicles to use a HOV facility under paragraph (4) or (5) of subsection (b) shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify to the Secretary that the agency

will carry out the following responsibilities with respect to the facility:

(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the facility that provides for continuous monitoring, assessment, and reporting on the impacts that the vehicles may have on the operation of the facility and adjacent highways and submitting to the Secretary annual reports of those impacts.

(B) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.

(C) Limiting or discontinuing the use of the facility by the vehicles whenever the operation of the facility is degraded.

(D) CONSULTATION OF MPO.—If the facility is on the Interstate System and located in a metropolitan planning area established in accordance with section 134, consulting with the metropolitan planning organization for the area concerning the placement and amount of tolls on the facility.

[(D)**]** *(E)* MAINTENANCE OF OPERATING PERFORMANCE.—Not later than 180 days after the date on which a facility is degraded pursuant to the standard specified in paragraph (2), the **[**State agency**]** *public authority* 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.

[(E)**]** *(F)* COMPLIANCE.—If the **[**State**]** *public authority* fails to bring a facility into compliance under **[**subparagraph (D)**]** *subparagraph (E)*, the Secretary shall subject the State to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.

(2) DEGRADED FACILITY.—

(A) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this paragraph, the term "minimum average operating speed" means—

(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 50 miles per hour or greater; and

(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 50 miles per hour.

(B) STANDARD FOR DETERMINING DEGRADED FACILITY.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles oper-

ating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both).

(C) MANAGEMENT OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—In managing the use of HOV lanes by low emission and energy-efficient vehicles that do not meet applicable occupancy requirements, a [State agency] *public authority* may increase the percentages described in subsection (f)(3)(B)(i).

(e) CERTIFICATION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Not later than 180 days after the date of enactment of this section, the Administrator of the Environmental Protection Agency shall—

(1) issue a final rule establishing requirements for certification of vehicles as low emission and energy-efficient vehicles for purposes of this section and requirements for the labeling of the vehicles; and

(2) establish guidelines and procedures for making the vehicle comparisons and performance calculations described in subsection (f)(3)(B), in accordance with section 32908(b) of title 49.

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

(1) ALTERNATIVE FUEL VEHICLE.—The term "alternative fuel vehicle" means a vehicle that is operating on—

(A) methanol, denatured ethanol, or other alcohols;

(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

(C) natural gas;

(D) liquefied petroleum gas;

(E) hydrogen;

(F) coal derived liquid fuels;

(G) fuels (except alcohol) derived from biological materials;

(H) electricity (including electricity from solar energy); or

(I) any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits, including fuels regulated under section 490 of title 10, Code of Federal Regulations (or successor regulations).

(2) HOV FACILITY.—The term "HOV facility" means a high occupancy vehicle facility.

(3) LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—The term "low emission and energy-efficient vehicle" means a vehicle that—

(A) has been certified by the Administrator as meeting the Tier II emission level established in regulations prescribed by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

(B)(i) is certified by the Administrator of the Environmental Protection Agency, in consultation with the manufacturer, to have achieved not less than a 50-percent increase in city fuel economy or not less than a 25-percent increase in combined city-highway fuel economy (or such

greater percentage of city or city-highway fuel economy as may be determined by a State under subsection (d)(2)(C)) relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle (other than a vehicle that has propulsion energy from onboard hybrid sources); or

(ii) is an alternative fuel vehicle.

(4) PUBLIC TRANSPORTATION VEHICLE.—The term "public transportation vehicle" means a vehicle that—

(A) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141) or provides public school transportation (to and from public or private primary, secondary, or tertiary schools); and

(B)(i) is owned or operated by a public entity;

(ii) is operated under a contract with a public entity; or

(iii) is operated pursuant to a license by the Secretary or a [State agency] *public authority* to provide motorbus or school vehicle transportation services to the public.

[(5) STATE AGENCY.—

[(A) IN GENERAL.—The term "State agency", as used with respect to a HOV facility, means an agency of a State or local government having jurisdiction over the operation of the facility.

[(B) INCLUSION.—The term "State agency" includes a State transportation department.]

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a vehicle as defined in section 301(5) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181(5)).

(6) PUBLIC AUTHORITY.—The term "public authority" as used with respect to a HOV facility, means a State, interstate compact of States, public entity designated by a State, or local government having jurisdiction over the operation of the facility.

[§ 167. National freight policy

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

[(b) GOALS.—The goals of the national freight policy are—

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

[(A) strengthen the contribution of the national freight network to the economic competitiveness of the United States;

[(B) reduce congestion; and

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

[(2) to improve the safety, security, and resilience of freight transportation;

[(3) to improve the state of good repair of the national freight network;

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

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

[(6) to improve the economic efficiency of the national freight network.

[(7) to reduce the environmental impacts of freight movement on the national freight network;

[(c) ESTABLISHMENT OF A NATIONAL FREIGHT NETWORK.—

[(1) IN GENERAL.—The Secretary shall establish a national freight network in accordance with this section to assist States in strategically directing resources toward improved system performance for efficient movement of freight on highways, including national highway system, freight intermodal connectors and aerotropolis transportation systems.

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

[(A) the primary freight network, as designated by the Secretary under subsection (d) (referred to in this section as the "primary freight network") as most critical to the movement of freight;

[(B) the portions of the Interstate System not designated as part of the primary freight network; and

[(C) critical rural freight corridors established under subsection (e).

[(d) DESIGNATION OF PRIMARY FREIGHT NETWORK.—

[(1) INITIAL DESIGNATION OF PRIMARY FREIGHT NETWORK.—

[(A) DESIGNATION.—Not later than 1 year after the date of enactment of this section, the Secretary shall designate a primary freight network—

[(i) based on an inventory of national freight volume conducted by the Administrator of the Federal Highway Administration, in consultation with stakeholders, including system users, transport providers, and States; and

[(ii) that shall be comprised of not more than 27,000 centerline miles of existing roadways that are most critical to the movement of freight.

[(B) FACTORS FOR DESIGNATION.—In designating the primary freight network, the Secretary shall consider—

[(i) the origins and destinations of freight movement in the United States;

[(ii) the total freight tonnage and value of freight moved by highways;

[(iii) the percentage of annual average daily truck traffic in the annual average daily traffic on principal arterials;

[(iv) the annual average daily truck traffic on principal arterials;

[(v) land and maritime ports of entry;

[(vi) access to energy exploration, development, installation, or production areas;

[(vii) population centers; and

[(viii) network connectivity.

[(2) ADDITIONAL MILES ON PRIMARY FREIGHT NETWORK.—In addition to the miles initially designated under paragraph (1),

the Secretary may increase the number of miles designated as part of the primary freight network by not more than 3,000 additional centerline miles of roadways (which may include existing or planned roads) critical to future efficient movement of goods on the primary freight network.

[(3) REDESIGNATION OF PRIMARY FREIGHT NETWORK.—Effective beginning 10 years after the designation of the primary freight network and every 10 years thereafter, using the designation factors described in paragraph (1), the Secretary shall redesignate the primary freight network (including additional mileage described in paragraph (2)).

[(e) CRITICAL RURAL FREIGHT CORRIDORS.—A State may designate a road within the borders of the State as a critical rural freight corridor if the road—

[(1) is a rural principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks (FHWA vehicle class 8 to 13);

[(2) provides access to energy exploration, development, installation, or production areas;

[(3) connects the primary freight network, a roadway described in paragraph (1) or (2), or Interstate System to facilities that handle more than—

[(A) 50,000 20-foot equivalent units per year; or

[(B) 500,000 tons per year of bulk commodities.

[(f) NATIONAL FREIGHT STRATEGIC PLAN.—

[(1) INITIAL DEVELOPMENT OF NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 3 years after the date of enactment of this section, the Secretary shall, in consultation with State departments of transportation and other appropriate public and private transportation stakeholders, develop and post on the Department of Transportation public website a national freight strategic plan that shall include—

[(A) an assessment of the condition and performance of the national freight network;

[(B) an identification of highway bottlenecks on the national freight network that create significant freight congestion problems, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include—

[(i) information from the Freight Analysis Network of the Federal Highway Administration; and

[(ii) to the maximum extent practicable, an estimate of the cost of addressing each bottleneck and any operational improvements that could be implemented;

[(C) forecasts of freight volumes for the 20-year period beginning in the year during which the plan is issued;

[(D) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators for current and forecasted traffic and freight volumes, the identification of which shall be revised, as appropriate, in subsequent plans;

[(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to im-

proved freight transportation performance (including opportunities for overcoming the barriers);

[(F) an identification of routes providing access to energy exploration, development, installation, or production areas;

[(G) best practices for improving the performance of the national freight network;

[(H) best practices to mitigate the impacts of freight movement on communities;

[(I) a process for addressing multistate projects and encouraging jurisdictions to collaborate; and

[(J) strategies to improve freight intermodal connectivity.

[(2) UPDATES TO NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 5 years after the date of completion of the first national freight strategic plan under paragraph (1), and every 5 years thereafter, the Secretary shall update and repost on the Department of Transportation public website a revised national freight strategic plan.

[(g) FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—Not later than 2 years after the date of enactment of this section, and biennially thereafter, the Secretary shall prepare a report that contains a description of the conditions and performance of the national freight network in the United States.

[(h) TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.—

[(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall—

[(A) begin development of new tools and improvement of existing tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

[(i) methodologies for systematic analysis of benefits and costs;

[(ii) tools for ensuring that the evaluation of freight-related and other transportation projects could consider safety, economic competitiveness, environmental sustainability, and system condition in the project selection process; and

[(iii) other elements to assist in effective transportation planning;

[(B) identify transportation-related model data elements to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions; and

[(C) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data collection efforts that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

[(2) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to develop, improve, and implement the tools and collect the data in paragraph (1).

[(i) DEFINITION OF AEROTROPOLIS TRANSPORTATION SYSTEM.—In this section, the term "aerotropolis transportation system" means a

planned and coordinated multimodal freight and passenger transportation network that, as determined by the Secretary, provides efficient, cost- effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.]

§ 167. National highway freight policy

(a) IN GENERAL.—It is the policy of the United States to improve the condition and performance of the National Highway Freight Network established under this section to ensure that the Network provides a foundation for the United States to compete in the global economy and achieve the goals described in subsection (b).

(b) GOALS.—The goals of the national highway freight policy are—

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

(A) strengthen the contribution of the National Highway Freight Network to the economic competitiveness of the United States;

(B) reduce congestion and bottlenecks on the National Highway Freight Network; and

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

(2) to improve the safety, security, and resilience of highway freight transportation;

(3) to improve the state of good repair of the National Highway Freight Network;

(4) to use innovation and advanced technology to improve the safety, efficiency, and reliability of the National Highway Freight Network;

(5) to improve the economic efficiency of the National Highway Freight Network;

(6) to improve the short and long distance movement of goods that—

(A) travel across rural areas between population centers; and

(B) travel between rural areas and population centers;

(7) to improve the flexibility of States to support multi-State corridor planning and the creation of multi-State organizations to increase the ability of States to address highway freight connectivity; and

(8) to reduce the environmental impacts of freight movement on the National Highway Freight Network.

(c) ESTABLISHMENT OF NATIONAL HIGHWAY FREIGHT NETWORK.—

(1) IN GENERAL.—The Secretary shall establish a National Highway Freight Network in accordance with this section to strategically direct Federal resources and policies toward improved performance of the Network.

(2) NETWORK COMPONENTS.—The National Highway Freight Network shall consist of—

(A) the Interstate System;

(B) non-Interstate highway segments on the 41,000-mile comprehensive primary freight network developed by the Secretary under section 167(d) as in effect on the day before

the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015; and

(C) additional non-Interstate highway segments designated by the States under subsection (d).

(d) STATE ADDITIONS TO NETWORK.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, each State, in consultation with the State freight advisory committee, may increase the number of miles designated as part of the National Highway Freight Network by not more than 10 percent of the miles designated in that State under subparagraphs (A) and (B) of subsection (c)(2) if the additional miles—

(A) close gaps between segments of the National Highway Freight Network;

(B) establish connections from the National Highway Freight Network to critical facilities for the efficient movement of freight, including ports, freight railroads, international border crossings, airports, intermodal facilities, warehouse and logistics centers, and agricultural facilities; or

(C) are part of critical emerging freight corridors or critical commerce corridors.

(2) SUBMISSION.—Each State shall—

(A) submit to the Secretary a list of the additional miles added under this subsection; and

(B) certify that the additional miles meet the requirements of paragraph (1).

(e) REDESIGNATION.—

(1) REDESIGNATION BY SECRETARY.—

(A) IN GENERAL.—Effective beginning 5 years after the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, and every 5 years thereafter, the Secretary shall redesignate the highway segments designated by the Secretary under subsection (c)(2)(B) that are on the National Highway Freight Network.

(B) CONSIDERATIONS.—In redesignating highway segments under subparagraph (A), the Secretary shall consider—

(i) changes in the origins and destinations of freight movements in the United States;

(ii) changes in the percentage of annual average daily truck traffic in the annual average daily traffic on principal arterials;

(iii) changes in the location of key facilities;

(iv) critical emerging freight corridors; and

(v) network connectivity.

(C) LIMITATION.—Each redesignation under subparagraph (A) may increase the mileage on the National Highway Freight Network designated by the Secretary by not more than 3 percent.

(2) REDESIGNATION BY STATES.—

(A) IN GENERAL.—Effective beginning 5 years after the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015, and every 5 years there-

after, each State may, in consultation with the State freight advisory committee, redesignate the highway segments designated by the State under subsection (c)(2)(C) that are on the National Highway Freight Network.

(B) CONSIDERATIONS.—In redesignating highway segments under subparagraph (A), the State shall consider—

(i) gaps between segments of the National Highway Freight Network;

(ii) needed connections from the National Highway Freight Network to critical facilities for the efficient movement of freight, including ports, freight railroads, international border crossings, airports, intermodal facilities, warehouse and logistics centers, and agricultural facilities; and

(iii) critical emerging freight corridors or critical commerce corridors.

(C) LIMITATION.—Each redesignation under subparagraph (A) may increase the mileage on the National Highway Freight Network designated by the State by not more than 3 percent.

(D) RESUBMISSION.—Each State, under the advisement of the State freight advisory committee, shall—

(i) submit to the Secretary a list of the miles redesignated under this paragraph; and

(ii) certify that the redesignated miles meet the requirements of subsection (d)(1).

§ 168. Integration of planning and environmental review

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

[(1) ENVIRONMENTAL REVIEW PROCESS.—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.).

[(2) PLANNING PRODUCT.—The term "planning product" means a detailed and timely decision, analysis, study, or other documented information that—

[(A) is the result of an evaluation or decisionmaking process carried out during transportation planning, including a detailed corridor plan or a transportation plan developed under section 134 that fully analyzes impacts on mobility, adjacent communities, and the environment;

[(B) is intended to be carried into the transportation project development process; and

[(C) has been approved by the State, all local and tribal governments where the project is located, and by any relevant metropolitan planning organization.]

(1) ENVIRONMENTAL REVIEW PROCESS.—The term "environmental review process" has the meaning given that term in section 139(a).

(2) LEAD AGENCY.—The term "lead agency" has the meaning given that term in section 139(a).

(3) PLANNING PRODUCT.—The term "planning product" means a decision, analysis, study, or other documented information

that is the result of an evaluation or decisionmaking process carried out by a metropolitan planning organization or a State, as appropriate, during metropolitan or statewide transportation planning under section 134 or section 135, respectively.

[(3)] *(4)* PROJECT.—The term "project" has the meaning given the term in section 139(a).

[(4)] *(5)* PROJECT SPONSOR.—The term "project sponsor" has the meaning given the term in section 139(a).

(b) ADOPTION *OR INCORPORATION BY REFERENCE* OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

(1) IN GENERAL.—Subject to the conditions set forth in subsection (d), [the Federal lead agency for a project may adopt] *and to the maximum extent practicable and appropriate, the lead agency for a project may adopt or incorporate by reference* and use a planning product in proceedings relating to any class of action in the environmental review process of the project.

[(2) IDENTIFICATION.—When the Federal lead agency makes a determination to adopt and use a planning product, the Federal lead agency shall identify those agencies that participated in the development of the planning products.

[(3) 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.]

(2) PARTIAL ADOPTION OR INCORPORATION BY REFERENCE OF PLANNING PRODUCTS.—The lead agency may adopt or incorporate by reference a planning product under paragraph (1) in its entirety or may select portions for adoption or incorporation by reference.

[(4)] *(3)* TIMING.—A determination under paragraph (1) with respect to the adoption *or incorporation by reference* of a planning product may be made at the time the lead agencies decide the appropriate scope of environmental review for the project but may also occur later in the environmental review process, as appropriate.

(c) APPLICABILITY.—

(1) PLANNING DECISIONS.—Planning decisions that may be [adopted] *adopted or incorporated by reference by the lead agency* pursuant to this section include—

[(A) whether tolling, private financial assistance, or other special financial measures are necessary to implement the project;]

(A) the project purpose and need;

(B) the preliminary screening of alternatives and elimination of unreasonable alternatives;

[(B)] *(C)* a decision with respect to modal choice *and general travel corridor*, including a decision to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;

[(C)] *(D)* a basic description of the environmental setting;

[(D)] *(E)* a decision with respect to methodologies for analysis; [and]

[(E)] *(F)* an identification of programmatic level mitigation for [potential impacts that the Federal lead agency, in

consultation with Federal, State, local, and tribal resource agencies,] *potential impacts of a project, including a programmatic mitigation plan developed in accordance with section 169, that the lead agency* 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[.]*; and*

(G) whether tolling, private financial assistance, or other special financial measures are necessary to implement the project.

(2) PLANNING ANALYSES.—Planning analyses that may be [adopted] *adopted or incorporated by reference by the lead agency* 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 *direct, indirect, and* 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] *proposed project*, or for programmatic level mitigation, for potential effects that the [Federal lead agency] *lead agency* determines are most effectively addressed at a regional or national program level.

(d) CONDITIONS.—[Adoption and use of a planning product under this section is subject to a determination by the Federal lead agency, with the concurrence of other participating agencies with relevant expertise and project sponsors as appropriate, and with an opportunity for public notice and comment and consideration of those comments by the Federal lead agency, that] *The lead agency in the environmental review process may adopt or incorporate by reference and use a planning product under this section if the lead agency determines 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 product was developed [by engaging in active consultation] *in consultation* with appropriate Federal and State resource agencies and Indian tribes.

(3) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects, including effects on the human and natural environment.

[(4) During the planning process, notice was provided through publication or other means to Federal, State, local, 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 any subsequent environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

[(5) After initiation of the environmental review process, but prior to determining whether to rely on and use the planning product, the lead Federal agency has made documentation relating to the planning product available to Federal, State, local, and tribal governments that may have an interest in the proposed action, and to members of the general public, and has considered any resulting comments.]

(4) The planning process included public notice that the planning products may be adopted or incorporated by reference during a subsequent environmental review process in accordance with this section.

(5) During the environmental review process, but prior to determining whether to rely on and use the planning product, the lead agency has—

(A) made the planning documents available for review and comment by members of the general public and Federal, State, local, and tribal governments that may have an interest in the proposed action;

(B) provided notice of the lead agency's intent to adopt the planning product or incorporate the planning product by reference; and

(C) considered any resulting comments.

(6) 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.

(7) The planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

(8) 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.

(9) The planning product is appropriate for adoption *or incorporation by reference* and use in the environmental review process for the project *and is sufficient to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*.

(10) The planning product was approved [not later than 5 years prior to date on which the information is adopted] *within the 5-year period ending on the date on which the information is adopted or incorporated by reference* pursuant to this section.

(e) EFFECT OF ADOPTION *OR INCORPORATION BY REFERENCE*.—Any planning product [adopted by the Federal lead agency] *adopted or incorporated by reference by the lead agency* in accordance with this section may be incorporated directly into an environ-

mental review process document or other environmental document and may be relied upon and used by other Federal agencies in carrying out reviews of the project.

(f) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—This section shall not be construed to make the environmental review process applicable to the transportation planning process conducted under this title and chapter 53 of title 49.

(2) TRANSPORTATION PLANNING ACTIVITIES.—Initiation of the environmental review process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the environmental review process.

(3) PLANNING PRODUCTS.—This section shall not be construed to affect the use of planning products in the environmental review process pursuant to other authorities under any other provision of law or to restrict the initiation of the environmental review process during planning.

§ 169. 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 1 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, parkland, 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.

(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 each agency 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 [may use] *shall give substantial weight to* the recommendations in a programmatic mitigation plan when carrying out the responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(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.).

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CHAPTER 2—OTHER HIGHWAYS

Sec.
201. Federal lands and tribal transportation programs.

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207. Tribal transportation self-governance program.

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[213. Transportation alternatives]

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§ 201. Federal lands and tribal transportation programs

(a) PURPOSE.—Recognizing the need for all public Federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public transportation facilities, the Secretary of Transportation, in collaboration with the Secretaries of the appropriate Federal land management agencies, shall coordinate a uniform policy for all public Federal and tribal transportation facilities that shall apply to

Federal lands transportation facilities, tribal transportation facilities, and Federal lands access transportation facilities.

(b) AVAILABILITY OF FUNDS.—

(1) AVAILABILITY.—Funds authorized for the tribal transportation program, the Federal lands transportation program, and the Federal lands access program shall be available for contract upon apportionment, or on October 1 of the fiscal year for which the funds were authorized if no apportionment is required.

(2) AMOUNT REMAINING.—Any amount remaining unexpended for a period of 3 years after the close of the fiscal year for which the funds were authorized shall lapse.

(3) OBLIGATIONS.—The Secretary of the department responsible for the administration of funds under this subsection may incur obligations, approve projects, and enter into contracts under such authorizations, which shall be considered to be contractual obligations of the United States for the payment of the cost thereof, the funds of which shall be considered to have been expended when obligated.

(4) EXPENDITURE.—

(A) IN GENERAL.—Any funds authorized for any fiscal year after the date of enactment of this section under the Federal lands transportation program, the Federal lands access program, and the tribal transportation program shall be considered to have been expended if a sum equal to the total of the sums authorized for the fiscal year and previous fiscal years have been obligated.

(B) CREDITED FUNDS.—Any funds described in subparagraph (A) that are released by payment of final voucher or modification of project authorizations shall be—

(i) credited to the balance of unobligated authorizations; and

(ii) immediately available for expenditure.

(5) APPLICABILITY.—This section shall not apply to funds authorized before the date of enactment of this paragraph.

(6) CONTRACTUAL OBLIGATION.—

(A) IN GENERAL.—Notwithstanding any other provision of law (including regulations), the authorization by the Secretary, or the Secretary of the appropriate Federal land management agency if the agency is the contracting office, of engineering and related work for the development, design, and acquisition associated with a construction project, whether performed by contract or agreement authorized by law, or the approval by the Secretary of plans, specifications, and estimates for construction of a project, shall be considered to constitute a contractual obligation of the Federal Government to pay the total eligible cost of—

(i) any project funded under this title; and

(ii) any project funded pursuant to agreements authorized by this title or any other title.

(B) EFFECT.—Nothing in this paragraph—

(i) affects the application of the Federal share associated with the project being undertaken under this section; or

(ii) modifies the point of obligation associated with Federal salaries and expenses.

(7) FEDERAL SHARE.—

(A) TRIBAL AND FEDERAL LANDS TRANSPORTATION PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands transportation program or the tribal transportation program shall be 100 percent.

(B) FEDERAL LANDS ACCESS PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands access program shall be determined in accordance with section 120.

(c) TRANSPORTATION PLANNING.—

(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall implement transportation planning procedures for Federal lands and tribal transportation facilities that are consistent with the planning processes required under sections 134 and 135.

(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

(3) INCLUSION IN OTHER PLANS.—Each regionally significant tribal transportation program, Federal lands transportation program, and Federal lands access program project shall be—

(A) developed in cooperation with State and metropolitan planning organizations; and

(B) included in appropriate tribal transportation program plans, Federal lands transportation program plans, Federal lands access program plans, State and metropolitan plans, and transportation improvement programs.

(4) INCLUSION IN STATE PROGRAMS.—The approved tribal transportation program, Federal lands transportation program, and Federal lands access program transportation improvement programs shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, implement safety, bridge, pavement, and congestion management systems for facilities funded under the tribal transportation program and the Federal lands transportation program in support of asset management.

(6) DATA COLLECTION.—

(A) DATA COLLECTION.—The Secretaries of the appropriate Federal land management agencies shall collect and report data necessary to implement the Federal lands transportation program, the Federal lands access program, and the tribal transportation program in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), including—

(i) inventory and condition information on Federal lands transportation facilities and tribal transportation facilities; and

(ii) bridge inspection and inventory information on any Federal bridge open to the public.

(B) STANDARDS.—The Secretary, in coordination with the Secretaries of the appropriate Federal land management agencies, shall define the collection and reporting data standards.

(C) TRIBAL DATA COLLECTION.—In addition to the data to be collected under subparagraph (A), not later than 90 days after the last day of each fiscal year, any entity carrying out a project under the tribal transportation program under section 202 shall submit to the Secretary and the Secretary of the Interior, based on obligations and expenditures under the tribal transportation program during the preceding fiscal year, the following data:

(i) The names of projects and activities carried out by the entity under the tribal transportation program during the preceding fiscal year.

(ii) A description of the projects and activities identified under clause (i).

(iii) The current status of the projects and activities identified under clause (i).

(iv) An estimate of the number of jobs created and the number of jobs retained by the projects and activities identified under clause (i).

(7) ADMINISTRATIVE EXPENSES.—To implement the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies, the Secretary may use not more than 5 percent for each fiscal year of the funds authorized for programs under sections 203 and 204.

(d) REIMBURSABLE AGREEMENTS.—In carrying out work under reimbursable agreements with any State, local, or tribal government under this title, the Secretary—

(1) may, without regard to any other provision of law (including regulations), record obligations against accounts receivable from the entity; and

(2) shall credit amounts received from the entity to the appropriate account, which shall occur not later than 90 days after the date of the original request by the Secretary for payment.

(e) TRANSFERS.—

(1) IN GENERAL.—To enable the efficient use of funds made available for the Federal lands transportation program and the Federal lands access program, the funds may be transferred by the Secretary within and between each program with the concurrence of, as appropriate—

(A) the Secretary;

(B) the affected Secretaries of the respective Federal land management agencies;

(C) State departments of transportation; and

(D) local government agencies.

(2) CREDIT.—The funds described in paragraph (1) shall be credited back to the loaning entity with funds that are currently available for obligation at the time of the credit.

§ 202. Tribal transportation program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the tribal transportation program shall be used by the Secretary of Transportation and the Secretary of the Interior to pay the costs of—

(A)(i) transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities;

(ii) adjacent vehicular parking areas;

(iii) interpretive signage;

(iv) acquisition of necessary scenic easements and scenic or historic sites;

(v) provisions for pedestrians and bicycles;

(vi) environmental mitigation in or adjacent to tribal land—

(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

(vii) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

(viii) other appropriate public road facilities as determined by the Secretary;

(B) operation and maintenance of transit programs and facilities that are located on, or provide access to, tribal land, or are administered by a tribal government; and

(C) any transportation project eligible for assistance under this title that is located within, or that provides access to, tribal land, or is associated with a tribal government.

(2) 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 the activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) 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).

(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to the construction or improvement of tribal transportation facilities.

(5) FUNDS FOR CONSTRUCTION AND IMPROVEMENT.—All funds made available for the construction and improvement of tribal transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the Interior.

(6) ADMINISTRATIVE EXPENSES.—Of the funds authorized to be appropriated for the tribal transportation program, not

more than [6 percent] *5 percent* may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative expenses.

(7) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Secretary of the Interior may reserve amounts from administrative funds of the Bureau of Indian Affairs that are associated with the tribal transportation program to fund tribal technical assistance centers under section 504(b).

(8) MAINTENANCE.—

(A) USE OF FUNDS.—Notwithstanding any other provision of this title, of the amount of funds allocated to an Indian tribe from the tribal transportation program, for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation), the Secretary shall not use an amount more than the greater of—

(i) an amount equal to 25 percent; or

(ii) $500,000.

(B) RESPONSIBILITY OF BUREAU OF INDIAN AFFAIRS AND SECRETARY OF THE INTERIOR.—

(i) BUREAU OF INDIAN AFFAIRS.—The Bureau of Indian Affairs shall retain primary responsibility, including annual funding request responsibility, for Bureau of Indian Affairs road maintenance programs on Indian reservations.

(ii) SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall ensure that funding made available under this subsection for maintenance of tribal transportation facilities for each fiscal year is supplementary to, and not in lieu of, any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

(C) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

(i) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe shall assume the responsibility of the State for—

(I) tribal transportation facilities; and

(II) roads providing access to tribal transportation facilities.

(ii) REQUIREMENTS.—Agreements entered into under clause (i) shall—

(I) be negotiated between the State and the Indian tribe; and

(II) not require the approval of the Secretary.

(9) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the tribal transportation program.

(10) COMPETITIVE BIDDING.—

(A) CONSTRUCTION.—

(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(ii) EXCEPTION.—Clause (i) shall not apply if the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(B) APPLICABILITY.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (25 U.S.C. 47) and section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal transportation facilities.

(b) FUNDS DISTRIBUTION.—

(1) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

(A) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program.

(B) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that an Indian tribe has requested, including facilities that—

(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;

(ii) are owned by an Indian tribal government;

(iii) are owned by the Bureau of Indian Affairs;

(iv) were constructed or reconstructed with funds from the Highway Trust Fund under the Indian reservation roads program since 1983;

(v) are public roads or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in the State of Oklahoma) in which the majority of residents are American Indians or Alaska Natives;

(vi) are public roads within or providing access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian or Alaska Native villages, groups, or communities in which Indians and Alaska Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians; or

(vii) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development,

and roads that provide access to intermodal terminals, such as airports, harbors, or boat landings.

(C) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this paragraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.

(D) ADDITIONAL FACILITIES.—Nothing in this paragraph precludes the Secretary from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

(E) BRIDGES.—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 144.

(2) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain any regulations governing the tribal transportation program.

(3) BASIS FOR FUNDING FORMULA.—

(A) BASIS.—

(i) IN GENERAL.—After making the set asides authorized under subparagraph (C) and subsections (c), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as follows:

(I) For fiscal year 2013—

(aa) for each Indian tribe, 80 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(II) For fiscal year 2014—

(aa) for each Indian tribe, 60 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(III) For fiscal year 2015—

(aa) for each Indian tribe, 40 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(IV) For fiscal year 2016 and thereafter—

(aa) for each Indian tribe, 20 percent of the total relative need distribution factor and population adjustment factor for the fiscal year

2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(ii) TRIBAL HIGH PRIORITY PROJECTS.—The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21), shall not continue in effect.

(B) TRIBAL SHARES.—Tribal shares under this program shall be determined using the national tribal transportation facility inventory as calculated for fiscal year 2012, and the most recent data on American Indian and Alaska Native population within each Indian tribe's American Indian/Alaska Native Reservation or Statistical Area, as computed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), in the following manner:

(i) 27 percent in the ratio that the total eligible road mileage in each tribe bears to the total eligible road mileage of all American Indians and Alaskan Natives. For the purposes of this calculation, eligible road mileage shall be computed based on the inventory described in paragraph (1), using only facilities included in the inventory described in clause (i), (ii), or (iii) of paragraph (1)(B).

(ii) 39 percent in the ratio that the total population in each tribe bears to the total population of all American Indians and Alaskan Natives.

(iii) 34 percent shall be divided equally among each Bureau of Indian Affairs region. Within each region, such share of funds shall be distributed to each Indian tribe in the ratio that the average total relative need distribution factors and population adjustment factors from fiscal years 2005 through 2011 for a tribe bears to the average total of relative need distribution factors and population adjustment factors for fiscal years 2005 through 2011 in that region.

(C) TRIBAL SUPPLEMENTAL FUNDING.—

(i) TRIBAL SUPPLEMENTAL FUNDING AMOUNT.—Of funds made available for each fiscal year for the tribal transportation program, the Secretary shall set aside the following amount for a tribal supplemental program:

(I) If the amount made available for the tribal transportation program is less than or equal to $275,000,000, 30 percent of such amount.

(II) If the amount made available for the tribal transportation program exceeds $275,000,000—

(aa) $82,500,000; plus

(bb) 12.5 percent of the amount made available for the tribal transportation program in excess of $275,000,000.

(ii) TRIBAL SUPPLEMENTAL ALLOCATION.—The Secretary shall distribute tribal supplemental funds as follows:

(I) DISTRIBUTION AMONG REGIONS.—Of the amounts set aside under clause (i), the Secretary shall distribute to each region of the Bureau of Indian Affairs a share of tribal supplemental funds in proportion to the regional total of tribal shares based on the cumulative tribal shares of all Indian tribes within such region under subparagraph (B).

(II) DISTRIBUTION WITHIN A REGION.—Of the amount that a region receives under subclause (I), the Secretary shall distribute tribal supplemental funding among Indian tribes within such region as follows:

(aa) TRIBAL SUPPLEMENTAL AMOUNTS.—The Secretary shall determine—

(AA) which such Indian tribes would be entitled under subparagraph (A) to receive in a fiscal year less funding than they would receive in fiscal year 2011 pursuant to the relative need distribution factor and population adjustment factor, as described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21); and

(BB) the combined amount that such Indian tribes would be entitled to receive in fiscal year 2011 pursuant to such relative need distribution factor and population adjustment factor in excess of the amount that they would be entitled to receive in the fiscal year under subparagraph (B).

(bb) COMBINED AMOUNT.—Subject to subclause (III), the Secretary shall distribute to each Indian tribe that meets the criteria described in item (aa)(AA) a share of funding under this subparagraph in proportion to the share of the combined amount determined under item (aa)(BB) attributable to such Indian tribe.

(III) CEILING.—An Indian tribe may not receive under subclause (II) and based on its tribal share under subparagraph (A) a combined amount that exceeds the amount that such Indian tribe would be entitled to receive in fiscal year 2011 pursuant to the relative need distribution factor and population adjustment factor, as described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21).

(IV) OTHER AMOUNTS.—If the amount made available for a region under subclause (I) exceeds

the amount distributed among Indian tribes within that region under subclause (II), the Secretary shall distribute the remainder of such region's funding under such subclause among all Indian tribes in that region in proportion to the combined amount that each such Indian tribe received under subparagraph (A) and subclauses (I), (II), and (III).]

(4) TRANSFERRED FUNDS.—

(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and made available for immediate use by, eligible Indian tribes, in accordance with the formula for distribution of funds under the tribal transportation program.

(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.

(5) 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 from the tribal transportation program through a contract or agreement under 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 from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs, Department of Transportation, or the Assistant Secretary for Indian Affairs, Department of the Interior, as appropriate.

(6) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions of programs, services, functions, or activities, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any tribal transportation facility 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 Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(B) EXCLUSION OF AGENCY PARTICIPATION.—All funds, including contract support costs, for programs, functions, services, or activities, or portions of programs, services, functions, or activities, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A), without regard to the organizational level at which the Department of the Interior has previously carried out such programs, functions, services, or activities.

(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a tribal transportation facility program or project shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds, including contract support costs, for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the tribal transportation program, the programs, functions, services, or activities involved.

(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

(F) ELIGIBILITY.—

(i) IN GENERAL.—Subject to clause (ii) and the approval of the Secretary, funds may be made available under 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) CONSIDERATIONS.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the contracts or self-governance funding agreements made by the Indian tribe with any Federal agency under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability of the Indian tribe for purposes of clause (i).

(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred to the Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolution and appeal procedures authorized by that Act, including regulations issued to carry out the Act.

(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been 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.

(c) PLANNING.—

(1) IN GENERAL.—For each fiscal year, not more than 2 percent of the funds made available for the tribal transportation program shall be allocated among Indian tribal governments that apply for transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(2) REQUIREMENT.—An Indian tribal 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 section 201(c).

(3) SELECTION AND APPROVAL OF PROJECTS.—A project funded under this section shall be—

(A) selected by the Indian tribal government from the transportation improvement program; and

(B) subject to the approval of the Secretary of the Interior and the Secretary.

(d) TRIBAL TRANSPORTATION FACILITY BRIDGES.—

(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall maintain a nationwide priority program for improving deficient bridges eligible for the tribal transportation program.

(2) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated—

(A) to carry out any planning, design, engineering, preconstruction, construction, and inspection of a project to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

(B) to implement any countermeasure for deficient tribal transportation facility bridges, including multiple-pipe culverts.

(3) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in paragraph (1) shall—

(A) have an opening of not less than 20 feet;

(B) be classified as a tribal transportation facility; and

(C) be structurally deficient or functionally obsolete.

(4) APPROVAL REQUIREMENT.—The Secretary may make funds available under this subsection for preliminary engineering, construction, and construction engineering activities after approval of required documentation and verification of eligibility in accordance with this title.

(e) SAFETY.—

(1) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal land, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in section 148(a)(4).

(2) PROJECT SELECTION.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program, subject to the approval of the Secretary and the Secretary of the Interior.

(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before approving as a project on a tribal transportation facility any project eligible for funds apportioned under section 104 in a State, the Secretary shall, for projects on tribal transportation facilities, determine that the obligation of funds for the project is supplementary to and not in lieu of the obligation of a fair and equitable share of funds apportioned to the State under section 104.

§ 203. Federal lands transportation program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

(A) program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of Federal lands transportation facilities, and—

(i) adjacent vehicular parking areas;

(ii) acquisition of necessary scenic easements and scenic or historic sites;

(iii) provision for pedestrians and bicycles;

(iv) environmental mitigation in or adjacent to Federal land open to the public—

(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

(vi) congestion mitigation; and

(vii) other appropriate public road facilities, as determined by the Secretary;

(B) [operation] *capital, operations,* and maintenance of transit facilities;

(C) any transportation project eligible for assistance under this title that is on a public road within or adjacent to, or that provides access to, Federal lands open to the public; and

(D) not more $10,000,000 of the amounts made available per fiscal year to carry out this section for activities eligible under subparagraph (A)(iv).

(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 con-

tract or other appropriate agreement with respect to the activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

(4) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands transportation facilities to which the funds were contributed.

(5) COMPETITIVE BIDDING.—

(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(b) AGENCY PROGRAM DISTRIBUTIONS.—

(1) IN GENERAL.—On October 1, 2011, and on October 1 of each fiscal year thereafter, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for the Federal lands transportation program on the basis of applications of need, as determined by the Secretary—

(A) in consultation with the Secretaries of the applicable Federal land management agencies; and

(B) in coordination with the transportation plans required under section 201 of the respective transportation systems of—

(i) the National Park Service;

(ii) the Forest Service;

(iii) the United States Fish and Wildlife Service;

(iv) the Corps of Engineers; **[**and**]**

(v) the Bureau of Land Management**[**.**]***;*

(vi) the Bureau of Reclamation; and

(vii) independent Federal agencies with natural resource and land management responsibilities.

(2) APPLICATIONS.—

(A) REQUIREMENTS.—Each application submitted by a Federal land management agency shall include proposed programs at various potential funding levels, as defined by the Secretary following collaborative discussions with applicable Federal land management agencies.

(B) CONSIDERATION BY SECRETARY.—In evaluating an application submitted under subparagraph (A), the Sec-

retary shall consider the extent to which the programs support *performance management, including*—

(i) the transportation goals of—

(I) a state of good repair of transportation facilities;

(II) a reduction of bridge deficiencies[, and]*; and*

(III) an improvement of safety;

(ii) high-use Federal recreational sites or Federal economic generators; and

(iii) the resource and asset management goals of the Secretary of the respective Federal land management agency.

(C) PERMISSIVE CONTENTS.—Applications may include proposed programs the duration of which extend over a multiple- year period to support long-term transportation planning and resource management initiatives.

(c) NATIONAL FEDERAL LANDS TRANSPORTATION FACILITY INVENTORY.—

(1) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of public Federal lands transportation facilities.

(2) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORIES.—To identify the Federal lands transportation system and determine the relative transportation needs among Federal land management agencies, the inventories shall include, at a minimum, facilities that—

(A) provide access to high-use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the respective Secretaries of the appropriate Federal land management agencies; and

(B) are owned by 1 of the following agencies:

(i) The National Park Service.

(ii) The Forest Service.

(iii) The United States Fish and Wildlife Service.

(iv) The Bureau of Land Management.

(v) The Corps of Engineers.

(vi) The Bureau of Reclamation.

(3) AVAILABILITY.—The inventories shall be made available to the Secretary.

(4) UPDATES.—The Secretaries of the appropriate Federal land management agencies shall update the inventories of the appropriate Federal land management agencies, as determined by the Secretary after collaborative discussions with the Secretaries of the appropriate Federal land management agencies.

(5) REVIEW.—A decision to add or remove a facility from the inventory shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) BICYCLE SAFETY.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within

100 yards of the road unless the Secretary determines that the bicycle level of service on that roadway is rated B or higher.

* * * * * * *

SEC. 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.—Subject to paragraphs (2) and (3), an Indian tribe shall be eligible to participate in the program if the Indian tribe requests participation in the program by resolution or other official action by the governing body of the Indian tribe, and demonstrates, for the preceding 3 fiscal years, financial stability and financial management capability, and transportation program management capability.

(2) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purposes of paragraph (1), 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 financial stability and financial management capability.

(3) CRITERIA FOR DETERMINING TRANSPORTATION PROGRAM MANAGEMENT CAPABILITY.—The Secretary shall require an Indian tribe to demonstrate transportation program management capability, including the capability to manage and complete projects eligible under this title and projects eligible under chapter 53 of title 49, to gain eligibility for the program.

(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) FORMULA FUNDING AND DISCRETIONARY 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, tribal transit formula 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(a).

(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—

(AA) section 202(b)(7); and

(BB) section 202(d)(5), as in effect before the date of enactment of MAP–21 (Public Law 112–141); 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 the Surface Transportation Reauthorization and Reform Act of 2015.

(3) 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.

(4) 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 1 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.

(5) 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 the requirements in—

(aa) appropriations Acts;

(bb) this title and chapter 53 of title 49; and

(cc) any other applicable law.

(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, services, 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 SECRETARY.—

(1) DECISIONMAKER.—A decision that 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 450j–1 of title 25, 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 450j–1(f) of title 25.

(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) REVIEW.—The Secretary shall review any application by an Indian tribe for a waiver bearing in mind increasing opportunities for using flexible policy approaches at the Indian tribal level.

(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) DENIALS.—If the application for a waiver is not granted, the agency shall provide the applicant with the reasons for the denial as part of the written response required in clause (i).

(v) 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 tribal transportation program funding agreements and program agreements; or

(B) enter into new agreements under the authority of section 202(b)(7).

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to impair or diminish the authority of the Secretary under section 202(b)(7).

(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 any reference to the Secretary of the Interior or the Secretary of Health and Human Services in such provisions shall be treated as a reference 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 intertribal 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, intertribal consor-

tium, 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, intertribal 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 Surface Transportation Reauthorization and Reform Act of 2015, 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 paragraph (1) shall expire 30 months after such date of enactment.

(D) EXTENSION OF DEADLINES.—A deadline set forth in paragraph (1)(B) or (1)(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-govern-

ment 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, except regulations promulgated under this section.

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[§ 213. Transportation alternatives

[(a) RESERVATION OF FUNDS.—

[(1) IN GENERAL.—On October 1 of each of fiscal years 2013 and 2014, the Secretary shall proportionally reserve from the funds apportioned to a State under section 104(b) to carry out the requirements of this section an amount equal to the amount obtained by multiplying the amount determined under paragraph (2) by the ratio that—

[(A) the amount apportioned to the State for the transportation enhancements program for fiscal year 2009 under section 133(d)(2), as in effect on the day before the date of enactment of the MAP-21; bears to

[(B) the total amount of funds apportioned to all States for that fiscal year for the transportation enhancements program for fiscal year 2009.

[(2) CALCULATION OF NATIONAL AMOUNT.—The Secretary shall determine an amount for each fiscal year that is equal to 2 percent of the amounts authorized to be appropriated for such fiscal year from the Highway Trust Fund (other than the Mass Transit Account) to carry out chapters 1, 2, 5, and 6 of this title.

[(b) ELIGIBLE PROJECTS.—A State may obligate the funds reserved under this section for any of the following projects or activities:

[(1) Transportation alternatives, as defined in section 101.

[(2) The recreational trails program under section 206.

[(3) The safe routes to school program under section 1404 of the SAFETEA-LU (23 U.S.C. 402 note; Public Law 109-59).

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

[(c) ALLOCATIONS OF FUNDS.—

[(1) CALCULATION.—Of the funds reserved in a State under this section—

[(A) 50 percent for a fiscal year shall be obligated under this section to any eligible entity in proportion to their relative shares of the population of the State—

[(i) in urbanized areas of the State with an urbanized area population of over 200,000;

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

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

[(B) 50 percent shall be obligated in any area of the State.

[(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

[(3) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

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

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

[(4) ACCESS TO FUNDS.—

[(A) IN GENERAL.—Each State or metropolitan planning organization required to obligate funds in accordance with paragraph (1) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection.

[(B) DEFINITION OF ELIGIBLE ENTITY.—In this paragraph, the term "eligible entity" means—

[(i) a local government;

[(ii) a regional transportation authority;

[(iii) a transit agency;

[(iv) a natural resource or public land agency;

[(v) a school district, local education agency, or school;

[(vi) a tribal government; and

[(vii) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

[(5) SELECTION OF PROJECTS.—For funds reserved in a State under this section and suballocated to a metropolitan planning area under paragraph (1)(A)(i), each such metropolitan planning organization shall select projects carried out within the boundaries of the applicable metropolitan planning area, in consultation with the relevant State.

[(d) FLEXIBILITY OF EXCESS RESERVED FUNDING.—Beginning in the second fiscal year after the date of enactment of the MAP-21, if on August 1 of that fiscal year the unobligated balance of available funds reserved by a State under this section exceeds 100 percent of such reserved amount in such fiscal year, the State may thereafter obligate the amount of excess funds for any activity—

[(1) that is eligible to receive funding under this section; or

[(2) for which the Secretary has approved the obligation of funds for any State under section 149.

[(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section (excluding those carried out under subsection (f)) shall be treated as projects on a Federal-aid highway under this chapter.

[(f) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—Each State shall—

[(1) obligate an amount of funds reserved under this section equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2) for projects relating to recreational trails under section 206;

[(2) return 1 percent of those funds to the Secretary for the administration of that program; and

[(3) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described under subsection (d)(3)(A) of that section.

[(g) STATE FLEXIBILITY.—A State may opt out of the recreational trails program under subsection (f) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.]

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CHAPTER 3—GENERAL PROVISIONS

Sec.
301. Freedom from tolls.

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330. Program for eliminating duplication of environmental reviews.

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§ 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 acquisition 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 *(including the enhancement of habitat and forage for pollinators)* 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.

(c) ENCOURAGEMENT OF POLLINATOR HABITAT AND FORAGE DEVELOPMENT AND PROTECTION ON TRANSPORTATION RIGHTS-OF-WAY.—In carrying out any program administered by the Secretary under this title, the Secretary shall, in conjunction with willing States, as appropriate—

(1) encourage integrated vegetation management practices on roadsides and other transportation rights-of-way, including reduced mowing; and

(2) encourage the development of habitat and forage for Monarch butterflies, other native pollinators, and honey bees through plantings of native forbs and grasses, including noninvasive, native milkweed species that can serve as migratory way stations for butterflies and facilitate migrations of other pollinators.

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§ 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 assistance 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] *surface transportation block grant 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.

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§ 327. Surface transportation project delivery program

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a surface transportation 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 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) 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 project;

(ii) at the request of the State, the Secretary may also assign to the State, and the State may assume, the responsibilities of the Secretary with respect to 1 or more railroad, public transportation, or multimodal projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iii) in a State that has assumed the responsibilities of the Secretary under clause (ii), a recipient of assistance under chapter 53 of title 49 may request that the Secretary maintain the responsibilities of the Secretary with respect to 1 or more public transportation projects within the State under the National Environmental Policy Act of 1969 **[**(42 U.S.C. 13 4321 et seq.)**]** *(42 U.S.C. 4321 et seq.)*; but

(iv) the Secretary may not assign—

(I) any responsibility imposed on the Secretary by section 134 or 135 or section 5303 or 5304 of title 49; or

(II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506).

(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 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 projects.

(G) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section

104(b)(2) for attorneys' fees directly attributable to eligible activities associated with the project.

(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 on which amendments to this section by the MAP-21 take effect, 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) the 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 highway 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 highway 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) require the State to provide to the Secretary any information the Secretary *reasonably* considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;

(5) have a term of not more than 5 years; and

(6) 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 *and without further approval 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.]

(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—

(A) not later than 6 months after execution of the agreement, meet with the State to review implementation of the agreement and discuss plans for the first annual audit;

(B) conduct annual audits during each of the first 4 years of State participation; and

(C) ensure that the time period for completing an annual audit, from initiation to completion (including public comment and responses to those comments), does not exceed 180 days.

(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).

(3) AUDIT TEAM.—An audit conducted under paragraph (1) shall be carried out by an audit team determined by the Secretary, in consultation with the State. Such consultation shall include a reasonable opportunity for the State to review and provide comments on the proposed members of the audit team.

(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.

(i) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

(j) TERMINATION.—

(1) TERMINATION BY THE 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 the Secretary.

(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.

(k) CAPACITY BUILDING.—The Secretary, in cooperation with representatives of State officials, may carry out education, training, peer-exchange, and other initiatives as appropriate—

(1) to assist States in developing the capacity to participate in the assignment program under this section; and

(2) to promote information sharing and collaboration among States that are participating in the assignment program under this section.

(l) RELATIONSHIP TO LOCALLY ADMINISTERED PROJECTS.—A State granted authority under this section may, as appropriate and at the request of a local government—

(1) exercise such authority on behalf of the local government for a locally administered project; or

(2) provide guidance and training on consolidating and minimizing the documentation and environmental analyses necessary for sponsors of a locally administered project to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any comparable requirements under State law.

* * * * * * *

§ 329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species

(a) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for the following activities if such activities are related to transportation projects funded under this title:

(1) Establishment of plants selected by State and local transportation authorities to perform one or more of the following functions: abatement of stormwater runoff, stabilization of soil, *provision of habitat, forage, and migratory way stations for Monarch butterflies, other native pollinators, and honey bees,* and aesthetic enhancement.

(2) Management of plants which impair or impede the establishment, maintenance, or safe use of a transportation system.

(b) INCLUDED ACTIVITIES.—The establishment and management under subsection (a)(1) and (a)(2) may include—

(1) right-of-way surveys to determine management requirements to control Federal or State noxious weeds as defined in the Plant Protection Act (7 U.S.C. 7701 et seq.) or State law, and brush or tree species, whether native or nonnative, that may be considered by State or local transportation authorities to be a threat with respect to the safety or maintenance of transportation systems;

(2) establishment of plants, whether native or nonnative with a preference for native to the maximum extent possible, for the purposes defined in subsection (a)(1);

(3) control or elimination of plants as defined in subsection (a)(2);

(4) elimination of plants to create fuel breaks for the prevention and control of wildfires; and

(5) training.

(c) CONTRIBUTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), an activity described in subsection (a) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

(2) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in subsection (a) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

§ 330. Program for eliminating duplication of environmental reviews

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to authorize States that are approved to participate in the program to conduct environmental reviews and make approvals for projects under State environmental laws and regulations instead of Federal environmental laws and regulations, consistent with the requirements of this section.

(2) PARTICIPATING STATES.—The Secretary may select not more than 5 States to participate in the program.

(3) ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.—In this section, the term "alternative environmental review and approval procedures" means—

(A) substitution of 1 or more State environmental laws for—

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

(ii) such provisions of sections 109(h), 128, and 139 related to the application of that Act that are under the authority of the Secretary, as the Secretary, in consultation with the State, considers appropriate; and

(iii) related regulations and Executive orders; and

(B) substitution of 1 or more State environmental regulations for—

(i) the National Environmental Policy Act of 1969;

(ii) such provisions of sections 109(h), 128, and 139 related to the application of that Act that are under the authority of the Secretary, as the Secretary, in consultation with the State, considers appropriate; and

(iii) related regulations and Executive orders.

(b) APPLICATION.—To be eligible 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) each Federal law described in subsection (a)(3) that the State is seeking to substitute;

(3) each State law and regulation that the State intends to substitute for such Federal law, Federal regulation, or Executive order;

(4) an explanation of the basis for concluding that the State law or regulation is substantially equivalent to the Federal law described in subsection (a)(3);

(5) a description of the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

(6) verification that the State has the financial resources necessary to carry out the authority that may be granted under the program;

(7) evidence of having sought, received, and addressed comments on the proposed application from the public; and

(8) any such additional information as the Secretary, or, with respect to section (d)(1)(A), the Secretary in consultation with the Chair, may require.

(c) REVIEW OF APPLICATION.—In accordance with subsection (d), the Secretary shall—

(1) review an application submitted under subsection (b);

(2) approve or disapprove the application not later than 90 days after the date of 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 APPLICATION.—

(1) IN GENERAL.—The Secretary shall approve an application submitted under subsection (b) only if—

(A) the Secretary, with the concurrence of the Chair, determines that the laws and regulations of the State described in the application are substantially equivalent to the Federal laws that the State is seeking to substitute;

(B) the Secretary determines that the State has the capacity, including financial and personnel, to assume the responsibility; and

(C) the State has executed an agreement with the Secretary, in accordance with section 327, providing for environmental review, consultation, or other action under Federal environmental laws pertaining to the review or approval of a specific project.

(2) EXCLUSION.—The National Environmental Policy Act of 1969 shall not apply to a decision by the Secretary to approve or disapprove an application submitted under this section.

(e) JUDICIAL REVIEW.—

(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State—

(A) for failure of the State to meet the requirements of this section; or

(B) if the action involves the exercise of authority by the State under this section and section 327.

(2) STATE JURISDICTION.—A State court shall have exclusive jurisdiction over any civil action against a State if the action involves the exercise of authority by the State under this section not covered by paragraph (1).

(f) ELECTION.—At its discretion, a State participating in the programs under this section and section 327 may elect to apply the National Environmental Protection Act of 1969 instead of the State's alternative environmental review and approval procedures.

(g) TREATMENT OF STATE LAWS AND REGULATIONS.—To the maximum extent practicable and consistent with Federal law, other Federal agencies with authority over a project subject to this section shall use documents produced by a participating State under this section to satisfy the requirements of the National Environmental Policy Act of 1969.

(h) RELATIONSHIP TO LOCALLY ADMINISTERED PROJECTS.—

(1) IN GENERAL.—A State with an approved program under this section, at the request of a local government, may exercise authority under that program on behalf of up to 10 local governments for locally administered projects.

(2) SCOPE.—For up to 10 local governments selected by a State with an approved program under this section, the State shall be responsible for ensuring that any environmental review, consultation, or other action required under the National Environmental Policy Act of 1969 or the State program, or both, meets the requirements of such Act or program.

(i) REVIEW AND TERMINATION.—

(1) IN GENERAL.—A State program approved under this section shall at all times be in accordance with the requirements of this section.

(2) REVIEW.—The Secretary shall review each State program approved under this section not less than once every 5 years.

(3) PUBLIC NOTICE AND COMMENT.—In conducting the review process under paragraph (2), the Secretary shall provide notice and an opportunity for public comment.

(4) WITHDRAWAL OF APPROVAL.—If the Secretary, in consultation with the Chair, determines at any time that a State is not administering a State program approved under this section in accordance with the requirements of this section, the Secretary shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Secretary shall withdraw approval of the State program.

(5) EXTENSIONS AND TERMINATIONS.—At the conclusion of the review process under paragraph (2), the Secretary may extend for an additional 5-year period or terminate the authority of a State under this section to substitute that State's laws and regulations for Federal laws.

(j) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the administration of the program, including—

(1) the number of States participating in the program;

(2) the number and types of projects for which each State participating in the program has used alternative environmental review and approval procedures; and

(3) any recommendations for modifications to the program.

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

(1) CHAIR.—The term "Chair" means the Chair of the Council on Environmental Quality.

(2) MULTIMODAL PROJECT.—The term "multimodal project" has the meaning given that term in section 139(a).

(3) PROGRAM.—The term "program" means the pilot program established under this section.

(4) PROJECT.—The term "project" means—

(A) a project requiring approval under this title, chapter 53 of subtitle III of title 49, or subtitle V of title 49; and

(B) a multimodal project.

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CHAPTER 4—HIGHWAY SAFETY

Sec.
401. Authority of the Secretary.

* * * * * * *

[404. National Highway Safety Advisory Committee.]
404. High-visibility enforcement program.

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§ 402. Highway safety programs

(a) PROGRAM REQUIRED.—

(1) IN GENERAL.—Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.

(2) UNIFORM GUIDELINES.—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

(A) include programs—

(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

(ii) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles;

(iii) to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

(iv) to prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles;

(v) to reduce injuries and deaths resulting from accidents involving school buses;

(vi) 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); [and]

(vii) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post- accident procedures; *and*

(viii) to increase driver awareness of commercial motor vehicles to prevent crashes and reduce injuries and fatalities;

(B) improve driver performance, including—

(i) driver education;

(ii) driver testing to determine proficiency to operate motor vehicles; and

(iii) driver examinations (physical, mental, and driver licensing);

(C) improve pedestrian performance and bicycle safety;

(D) include provisions for—

(i) an effective record system of accidents (including resulting injuries and deaths);

(ii) accident investigations to determine the probable causes of accidents, injuries, and deaths;

(iii) vehicle registration, operation, and inspection; and

(iv) emergency services; and

(E) to the extent determined appropriate by the Secretary, are 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) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;

(C) except as provided in ❚paragraph (3)❚ *paragraph (2)*, provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B);

(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;

(E) beginning on the first day of the first fiscal year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 ❚in which❚ *for which* a State submits its highway safety plan ❚under subsection (f)❚ *under subsection (k)*, provide for a data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;

(F) 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 and high-visibility law enforcement mobilizations coordinated by the Secretary;

(ii) sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

(iii) an annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of State safety belt use rates to ensure that the measurements are accurate and representative;

(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources; and

(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

(c) USE OF FUNDS.—

(1) IN GENERAL.—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.

(2) APPORTIONMENT.—Except for amounts identified in section 403(f), funds described in paragraph (1) 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 apportionment. 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. A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States. 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 20 percent 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.

(3) REAPPORTIONMENT.—The Secretary shall promptly apportion the funds withheld from a State's apportionment to the State if the Secretary approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July 31st 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 paragraph (2) not later than the last day of the fiscal year.

(4) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

(A) PROHIBITION.—A State may not expend funds apportioned to that State under this section to carry out a program to purchase, operate, or maintain an automated traffic enforcement system.

(B) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this paragraph, the term "automated traffic enforcement system" means any camera which captures an image of a vehicle for the purposes only of red light and speed enforcement, and does not include hand held radar and other devices operated by law enforcement officers to make an on-the-scene traffic stop, issue a traffic citation, or other enforcement action at the time of the violation.

(C) SURVEY.—A State shall expend funds apportioned to that State under this section to conduct a biennial survey that the Secretary shall make publicly available through the Internet Web site of the Department of Transportation that includes—

(i) a list of automated traffic enforcement systems in the State;

(ii) adequate data to measure the transparency, accountability, and safety attributes of each automated traffic enforcement system; and

(iii) a comparison of each automated traffic enforcement system with—

(I) Speed Enforcement Camera Systems Operational Guidelines (DOT HS 810 916, March 2008); and

(II) Red Light Camera Systems Operational Guidelines (FHWA–SA–05–002, January 2005).

(d) All provisions of chapter 1 of this title that are applicable to National 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 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 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) SAVINGS PROVISION.—

[(1) IN GENERAL.—Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—

[(A) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

[(B) any purpose for which funds are authorized under section 403.

[(2) DEMONSTRATION PROJECTS.—A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403.]

(g) RESTRICTION.—Nothing in this section may be construed to authorize the appropriation or expenditure of funds for highway

construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines).

(h) APPLICATION IN INDIAN COUNTRY.—

(1) USE OF TERMS.—For the purpose of application of this section in Indian country, the terms "State" and "Governor of a State" include the Secretary of the Interior and the term "political subdivision of a State" includes an Indian tribe.

(2) EXPENDITURES FOR LOCAL HIGHWAY PROGRAMS.—Notwithstanding subsection (b)(1)(C), 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions.

(3) ACCESS FOR INDIVIDUALS WITH DISABILITIES.—The requirements of subsection (b)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

(4) INDIAN COUNTRY DEFINED.—In this subsection, the term "Indian country" means—

(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

(B) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(i) RULEMAKING PROCEEDING.—The Secretary may periodically conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries, and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.

(j) 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.

(k) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

(1) IN GENERAL.—With respect to fiscal year 2014, and each fiscal year thereafter, the Secretary shall require 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 that complies with the requirements under this subsection.

(2) TIMING.—Each State shall submit to the Secretary the highway safety plan not later than July 1st of the fiscal year preceding the fiscal year to which the plan applies.

(3) ELECTRONIC SUBMISSION.—The Secretary, in coordination with the Governors Highway Safety Association, shall develop procedures to allow States to submit highway safety plans under this subsection, including any attachments to the plans, in electronic form.

[(3)] *(4)* CONTENTS.—State highway safety plans submitted under paragraph (1) shall include—

(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

(i) documentation of current safety levels for each performance measure;

(ii) quantifiable annual performance targets for each performance measure; and

(iii) a justification for each performance target, that explains why each target is appropriate and evidence-based;

(B) a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);

(C) data and data analysis supporting the effectiveness of proposed countermeasures;

(D) 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 strategy described in subparagraph (B);

(E) for the fiscal year preceding the fiscal year to which the plan applies, a report on the State's success in meeting State safety goals and performance targets set forth in the previous year's highway safety plan; and

(F) an application for any additional grants available to the State under this chapter.

[(4)] *(5)* PERFORMANCE MEASURES.—For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary [under paragraph (2)(A)] *under paragraph (3)(A)* shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor's Highway Safety Association and described in the report, "Traffic Safety Performance Measures for States and Federal Agencies" (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall coordinate with the Governor's Highway Safety Association in making revisions to the set of required performance measures.

[(5)] *(6)* REVIEW OF HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Not later than 60 days after the date on which a State's highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan.

(B) APPROVALS AND DISAPPROVALS.—

(i) APPROVALS.—The Secretary shall approve a State's highway safety plan if the Secretary determines that—

(I) the plan and the performance targets contained in the plan are evidence-based and supported by data; and

(II) the plan, once implemented, will allow the State to meet the State's performance targets.

(ii) DISAPPROVALS.—The Secretary shall disapprove a State's highway safety plan if the Secretary determines that—

(I) the plan and the performance targets contained in the plan are not evidence-based or supported by data; or

(II) the plan does not provide for programming of funding in a manner sufficient to allow the State to meet the State's performance targets.

(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall—

(i) inform the State of the reasons for such disapproval; and

(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

(E) PUBLIC NOTICE.—A State shall make the State's highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.

(m) TEEN TRAFFIC SAFETY.—

(1) IN GENERAL.—Subject to the requirements of a State's highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement statewide efforts to improve traffic safety for teen drivers.

(2) USE OF FUNDS.—Statewide efforts under paragraph (1)—

(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

(i) increase safety belt use;

(ii) reduce speeding;

(iii) reduce impaired and distracted driving;

(iv) reduce underage drinking; **[**and**]**

(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

(vi) increase driver awareness of commercial motor vehicles to prevent crashes and reduce injuries and fatalities; and

(B) may include—

(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

(v) conducting outreach and providing educational resources for parents;

(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor's safety representative on issues related to the safety of teen drivers;

(vii) collaborating with law enforcement; and

(viii) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities.

(n) BIENNIAL REPORT TO CONGRESS.—Not later than October 1, 2015, and biennially thereafter, 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 that contains—

(1) an evaluation of each State's performance with respect to the State's highway safety plan under subsection (k) and performance targets set by the States in such plans; and

(2) such recommendations as the Secretary may have for improvements to activities carried out under subsection (k).

§ 403. Highway safety research and development

(a) DEFINED TERM.—In this section, the term "Federal laboratory" includes—

(1) a government-owned, government-operated laboratory; and

(2) a government-owned, contractor-operated laboratory.

(b) GENERAL AUTHORITY.—

(1) RESEARCH AND DEVELOPMENT ACTIVITIES.—The Secretary may conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—

(A) all aspects of highway and traffic safety systems and conditions relating to—

(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

(ii) accident causation and investigations;

(iii) communications; and

(iv) emergency medical services, including the transportation of the injured;

(B) human behavioral factors and their effect on highway and traffic safety, including—

(i) driver education;

(ii) impaired driving; and

(iii) distracted driving;

(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives;

(D) the development of technologies to detect drug impaired drivers;

(E) 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; **[**and**]**

(F) the installation of ignition interlocks in the United States; and

[(F)**]** *(G)* the effect of State laws on any aspects, activities, or programs described **[**in subparagraphs (A) through (E)**]** *in subparagraphs (A) through (F)*.

(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

(A) independently;

(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1); or

(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, colleges, universities, corporations, partnerships, sole proprietorships, organizations, and trade associations that are incorporated or established under the laws of any State or the United States; and

(B) Federal laboratories.

(2) 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)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under 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 (15 U.S.C. 3701 et seq.).

(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

(e) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or ⟦chapter 301⟧ *chapter 301 of title 49* may only be made available to the public in a manner that does not identify individuals.

(f) COOPERATIVE RESEARCH AND EVALUATION.—

(1) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), $2,500,000 of the total amount available for apportionment to the States for highway safety programs under subsection 402(c) in each fiscal year ending before October 1, 2015, and $198,087 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

(2) ADMINISTRATION.—The program established under paragraph (1)—

(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.

(g) INTERNATIONAL COOPERATION.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.

(h) IN-VEHICLE ALCOHOL DETECTION DEVICE RESEARCH.—

(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration may carry out a collaborative research effort under chapter 301 of title 49 on in-vehicle technology to prevent alcohol-impaired driving.

⟦(2) FUNDING.—Funds provided under section 405 may be made to be used by the Secretary to conduct the research described in paragraph (1).⟧

(2) FUNDING.—The Secretary shall obligate for each of fiscal years 2016 through 2021, from funds made available to carry out this section, except that the total obligated for the period covering fiscal years 2016 through 2021 may not exceed $32,000,000, to conduct the research described in paragraph (1).

(3) PRIVACY PROTECTION.—If the Administrator utilizes the authority under paragraph (1), the Administrator shall not develop requirements for any device or means of technology to be

installed in an automobile intended for retail sale that records a driver's blood alcohol concentration.

(4) REPORTS.—If the Administrator conducts the research authorized under paragraph (1), the Administrator shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and Committee on Science, Space, and Technology of the House of Representatives that—

(A) describes the progress made in carrying out the collaborative research effort; and

(B) includes an accounting for the use of Federal funds obligated or expended in carrying out that effort.

(5) DEFINITIONS.—In this subsection:

(A) ALCOHOL-IMPAIRED DRIVING.—The term "alcohol-impaired driving" means the operation of a motor vehicle (as defined in section 30102(a)(6) of title 49) by an individual whose blood alcohol content is at or above the legal limit.

(B) LEGAL LIMIT.—The term "legal limit" means a blood alcohol concentration of 0.08 percent or greater (as set forth in section 163(a)) or such other percentage limitation as may be established by applicable Federal, State, or local law.

(i) LIMITATION ON DRUG AND ALCOHOL SURVEY DATA.—The Secretary shall establish procedures and guidelines to ensure that any person participating in a program or activity that collects data on drug or alcohol use by drivers of motor vehicles and is carried out under this section is informed that the program or activity is voluntary.

(j) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out under this section may be not more than 100 percent.

[§ 404. National Highway Safety Advisory Committee

[(a)(1) There is established in the Department of Transportation a National Highway Safety Advisory Committee, composed of the Secretary or an officer of the Department appointed by him, the Federal Highway Administrator, the National Highway Traffic Safety Administrator, and thirty-five members appointed by the President, no more than four of whom shall be Federal officers or employees. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State and local governments, including State legislatures, of public and private interests contributing to, affected by, or concerned with highway safety, including the national organizations of passenger car, bus, and truck owners, and of other public and private agencies, organizations, or groups demonstrating an active interest in highway safety, as well as research scientists and other individuals who are expert in this field.

[(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the re-

mainder of such term, and (ii) the terms of office of members first taking office after the date of enactment of this section shall expire as follows: Twelve at the end of one year after the date such committee members are appointed by the President, twelve at the end of two years after the date such committee members are appointed by the President, and eleven at the end of three years after the date such committee members are appointed, as designated by the President at the time of appointment, and (iii) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the President who has served a three-year term, other than Federal officers or employees, shall be eligible for reappointment within one year following the end of his preceding term.

[(B) Members of the Committee who are not officers or employees of the United States shall, while attending meetings or conferences of such Committee or otherwise engaged in the business of such Committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

[(b) The National Highway Safety Advisory Committee shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Department in the field of highway safety. The Committee is authorized (1) to review research projects or programs submitted to or recommended by it in the field of highway safety and recommend to the Secretary, for prosecution under this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of highway accidents; and (2) to review, prior to issuance, standards proposed to be issued by order of the Secretary under the provisions of section 402(a) of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

[(c) The National Highway Safety Advisory Committee shall meet from time to time as the Secretary shall direct, but at least once each year.

[(d) The Secretary shall provide to the National Highway Safety Committee from among the personnel and facilities of the Department of Transportation such staff and facilities as are necessary to carry out the functions of such Committee.**]**

§ 404. High visibility enforcement program

(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which not less than 3 campaigns will be carried out in each of fiscal years 2016 through 2021.

(b) PURPOSE.—The purpose of each campaign carried out under this section shall be to achieve outcomes related to not less than 1 of the following objectives:

(1) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

(2) Increase use of seatbelts by occupants of motor vehicles.

(3) Reduce distracted driving 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 and Internet-based outreach in carrying out campaigns under this section. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen to, read, or watch nontraditional media.

(d) COORDINATION WITH STATES.—The Administrator shall coordinate with States in carrying out the campaigns under this section, including advertising funded under subsection (c), with consideration given to—

(1) relying on States to provide law enforcement resources for the campaigns out of funding available under sections 402 and 405; 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 campaigns.

(e) USE OF FUNDS.—Funds made available to carry out this section may only be used for activities described in subsection (c).

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

(1) CAMPAIGN.—The term "campaign" means a high-visibility traffic safety law enforcement campaign.

(2) STATE.—The term "State" has the meaning such term has under section 401.

§ 405. National priority safety programs

[(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall manage programs to address national priorities for reducing highway deaths and injuries. Funds shall be allocated according to the priorities set forth in paragraphs (1) and (2).

[(1) GRANTS TO STATES.—

[(A) OCCUPANT PROTECTION.—16 percent of the funds provided under this section in each fiscal year shall be allocated among States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles (as described in subsection (b)).

[(B) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—14.5 percent of the funds provided under this section in each fiscal year shall be allocated among States that meet the requirements of the State traffic safety information system improvements (as described in subsection (c)).

[(C) IMPAIRED DRIVING COUNTERMEASURES.—52.5 percent of the funds provided under this section in each fiscal year shall be allocated among States that meet the requirements of the impaired driving countermeasures (as described in subsection (d)).

[(D) DISTRACTED DRIVING.—8.5 percent of the funds provided under this section in each fiscal year shall be allocated among States that adopt and implement effective laws to reduce distracted driving (as described in subsection (e)).

[(E) MOTORCYCLIST SAFETY.—1.5 percent of the funds provided under this section in each fiscal year shall be allocated among States that implement motorcyclist safety programs (as described in subsection (f)).

[(F) STATE GRADUATED DRIVER LICENSING LAWS.—5 percent of the funds provided under this section in each fiscal year shall be allocated among States that adopt and implement graduated driver licensing laws (as described in subsection (g)).

[(G) TRANSFERS.—Notwithstanding subparagraphs (A) through (F), the Secretary may reallocate, before the last day of any fiscal year, any amounts remaining available to carry out any of the activities described in subsections (b) through (g) to increase the amount made available to carry out any of the other activities described in such subsections, or the amount made available under section 402, in order to ensure, to the maximum extent possible, that all such amounts are obligated during such fiscal year.

[(H) MAINTENANCE OF EFFORT.—

[(i) REQUIREMENTS.—No grant may be made to a State in any fiscal year under subsection (b), (c), or (d) 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 State and local sources for programs described in those sections at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012.

[(ii) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under clause (i) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

[(2) OTHER PRIORITY PROGRAMS.—Funds provided under this section in each fiscal year may be used for research into technology to prevent alcohol-impaired driving (as described in subsection 403(h)).]

(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall manage programs to address national priorities for reducing highway deaths and injuries. Funds shall be allocated according to the following:

(1) OCCUPANT PROTECTION.—In each fiscal year, 13 percent of the funds provided under this section shall be allocated among States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles (as described in subsection (b)).

(2) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—In each fiscal year, 14.5 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to State traffic safety information system improvements (as described in subsection (c)).

(3) IMPAIRED DRIVING COUNTERMEASURES.—In each fiscal year, 52.5 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to impaired driving countermeasures (as described in subsection (d)).

(4) DISTRACTED DRIVING.—In each fiscal year, 8.5 percent of the funds provided under this section shall be allocated among States that adopt and implement effective laws to reduce distracted driving (as described in subsection (e)).

(5) MOTORCYCLIST SAFETY.—In each fiscal year, 1.5 percent of the funds provided under this section shall be allocated among States that implement motorcyclist safety programs (as described in subsection (f)).

(6) STATE GRADUATED DRIVER LICENSING LAWS.—In each fiscal year, 5 percent of the funds provided under this section shall be allocated among States that adopt and implement graduated driver licensing laws (as described in subsection (g)).

(7) NONMOTORIZED SAFETY.—In each fiscal year, 5 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to nonmotorized safety (as described in subsection (h)).

(8) TRANSFERS.—Notwithstanding paragraphs (1) through (7), the Secretary may reallocate, before the last day of any fiscal year, any amounts remaining available to carry out any of the activities described in subsections (b) through (h) to increase the amount made available under section 402, in order to ensure, to the maximum extent possible, that all such amounts are obligated during such fiscal year.

(9) MAINTENANCE OF EFFORT.—

(A) REQUIREMENTS.—No grant may be made to a State in any fiscal year under subsection (b), (c), or (d) 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 State and local sources for programs described in those subsections at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this paragraph.

(B) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under subparagraph (A) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

(b) OCCUPANT PROTECTION GRANTS.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

(2) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this subsection may not exceed 80 percent for each fiscal year for which a State receives a grant.

(3) ELIGIBILITY.—

(A) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

(i) submits an occupant protection plan during the first fiscal year;

(ii) participates in the Click It or Ticket national mobilization;

(iii) has an active network of child restraint inspection stations; and

(iv) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

(B) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

(i) the State meets all of the requirements under clauses (i) through (iv) of subparagraph (A); and

(ii) the Secretary determines that the State meets at least 3 of the following criteria:

(I) The State conducts sustained (on-going and periodic) seat belt enforcement at a defined level of participation during the year.

(II) The State has enacted and enforces a primary enforcement seat belt use law.

(III) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

(IV) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

(V) The State has implemented a comprehensive occupant protection program in which the State has—

(aa) conducted a program assessment;

(bb) developed a statewide strategic plan;

(cc) designated an occupant protection coordinator; and

(dd) established a statewide occupant protection task force.

(VI) The State—

(aa) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or

(bb) will conduct such an assessment during the first year of the grant.

(4) USE OF GRANT AMOUNTS.—

(A) IN GENERAL.—Grant funds received pursuant to this subsection may be used to—

(i) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

(ii) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

(iii) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

(iv) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

(v) purchase and distribute child restraints to low-income families, provided that not more than 5 percent of the funds received in a fiscal year are used for such purpose; and

(vi) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys.

(B) HIGH SEAT BELT USE RATE.—A State that is eligible for funds under paragraph (3)(A) may use up to [75 percent] *100 percent* of such funds for any project or activity eligible for funding under section 402.

(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(6) DEFINITIONS.—In this subsection:

(A) CHILD RESTRAINT.—The term "child restraint" means any device (including child safety seat, booster seat, harness, and excepting seat belts) that is—

(i) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less; and

(ii) certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

(B) SEAT BELT.—The term "seat belt" means—

(i) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(ii) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

(c) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

(A) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

(B) evaluate the effectiveness of efforts to make such improvements;

(C) 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;

(D) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and

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

(2) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this subsection may not exceed 80 percent.

(3) ELIGIBILITY.—A State is not eligible for a grant under this subsection in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

(A) has a functioning traffic records coordinating committee (referred to in this paragraph as "TRCC") that meets at least 3 times each year;

(B) has designated a TRCC coordinator;

(C) has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State's core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

(D) has demonstrated quantitative progress in relation to the significant data program attribute of—

(i) accuracy;

(ii) completeness;

(iii) timeliness;

(iv) uniformity;

(v) accessibility; or

(vi) integration of a core highway safety database; and

(E) has certified to the Secretary that an assessment of the State's highway safety data and traffic records system was conducted or updated during the preceding 5 years.

(4) USE OF GRANT AMOUNTS.—Grant funds received by a State under this subsection shall be used for making data program improvements to core highway safety databases related

to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in paragraph (3)(D).

(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(d) IMPAIRED DRIVING COUNTERMEASURES.—

(1) IN GENERAL.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States that adopt and implement—

(A) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

(B) alcohol-ignition interlock laws.

(2) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this subsection may not exceed 80 percent in any fiscal year in which the State receives a grant.

(3) ELIGIBILITY.—

(A) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this subsection.

(B) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this subsection if—

(i) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or

(ii) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

(C) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this subsection if the State—

(i)(I) conducted an assessment of the State's impaired driving program during the most recent 3 calendar years; or

(II) will conduct such an assessment during the first year of the grant;

(ii) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

(I) addresses any recommendations from the assessment conducted under clause (i);

(II) includes a detailed plan for spending any grant funds provided under this subsection; and

(III) describes how such spending supports the statewide program; and

(iii)(I) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency's review and approval;

(II) annually updates the statewide plan in each subsequent year of the grant; and

(III) submits each updated statewide plan for the agency's review and comment.

[(4) USE OF GRANT AMOUNTS.—

[(A) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

[(i) high visibility enforcement efforts; and

[(ii) any of the activities described in subparagraph (B) if—

[(I) the activity is described in the statewide plan; and

[(II) the Secretary approves the use of funding for such activity.

[(B) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

[(i) any of the purposes described in subparagraph (A);

[(ii) hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

[(iii) court support of high visibility enforcement efforts, training and education of criminal justice professionals (including law enforcement, prosecutors, judges, and probation officers) to assist such professionals in handling impaired driving cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons, and establishing driving while intoxicated courts;

[(iv) alcohol ignition interlock programs;

[(v) improving blood-alcohol concentration testing and reporting;

[(vi) paid and earned media in support of high visibility enforcement efforts, and conducting standardized field sobriety training, advanced roadside impaired driving evaluation training, and drug recognition expert training for law enforcement, and equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

[(vii) training on the use of alcohol screening and brief intervention;

[(viii) developing impaired driving information systems; and

[(ix) costs associated with a 24-7 sobriety program.

[(C) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification. Medium and high-range States may use funds for such expenditures upon approval by the Secretary.]

(4) USE OF GRANT AMOUNTS.—

(A) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

(i) high-visibility enforcement efforts; and

(ii) any of the activities described in subparagraph (B) if—

(I) the activity is described in the statewide plan; and

(II) the Secretary approves the use of funding for such activity.

(B) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

(i) any of the purposes described in subparagraph (A);

(ii) hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol, drugs, or the combination of alcohol and drugs;

(iii) court support of high-visibility enforcement efforts, training and education of criminal justice professionals (including law enforcement, prosecutors, judges, and probation officers) to assist such professionals in handling impaired driving cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons, and establishing driving while intoxicated courts;

(iv) alcohol ignition interlock programs;

(v) improving blood-alcohol concentration testing and reporting;

(vi) paid and earned media in support of high-visibility enforcement efforts, conducting standardized field sobriety training, advanced roadside impaired driving evaluation training, and drug recognition expert training for law enforcement, and equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

(vii) training on the use of alcohol and drug screening and brief intervention;

(viii) training for and implementation of impaired driving assessment programs or other tools designed to increase the probability of identifying the recidivism risk of a person convicted of driving under the influence of alcohol, drugs, or a combination of alcohol and drugs and to determine the most effective mental health or substance abuse treatment or sanction that will reduce such risk;

(ix) developing impaired driving information systems; and

(x) costs associated with a 24–7 sobriety program.

(C) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification and may use not more than 50 percent of funds made available under this subsection for any project or activity eligible for funding under section 402. Medium- and high-range States may use funds for any expenditure designed to reduce impaired driving based on problem identification upon approval by the Secretary.

(5) GRANT AMOUNT.—Subject to paragraph (6), the allocation of grant funds to a State under this section for a fiscal year

shall be in proportion to the State's apportionment [under section 402(c)] *under section 402* for fiscal year 2009.

(6) GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

[(A) IN GENERAL.—The Secretary shall make a separate grant under this subsection to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.]

(A) IN GENERAL.—The Secretary shall make a separate grant under this subsection to each State that adopts and is enforcing a law that requires any individual convicted of driving under the influence of alcohol or of driving while intoxicated to receive a restriction on driving privileges that limits the individual to operating only motor vehicles with an ignition interlock installed. Such law may provide limited exceptions for circumstances when—

(i) a State-certified ignition interlock provider is not available within 100 miles of the individual's residence;

(ii) the individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual; or

(iii) the individual is certified by a medical doctor as being unable to provide a deep lung breath sample for analysis by an ignition interlock device.

(B) USE OF FUNDS.—Grants authorized under subparagraph (A) may be used by recipient States for any eligible activities under this subsection or section 402.

(C) ALLOCATION.—Amounts made available under this paragraph shall be allocated among States described in subparagraph (A) [on the basis of the apportionment formula set forth in section 402(c)] *in proportion to the State's apportionment under section 402 for fiscal year 2009*.

(D) FUNDING.—Not more than 15 percent of the amounts made available to carry out this subsection in a fiscal year shall be made available by the Secretary for making grants under this paragraph.

(7) DEFINITIONS.—In this subsection:

(A) 24-7 SOBRIETY PROGRAM.—The term "24-7 sobriety program" means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to—

(i) require an individual who plead guilty or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

(ii) require the individual to be subject to testing for alcohol or drugs—

(I) at least twice per day;

(II) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

(III) by an alternate method with the concurrence of the Secretary.

(B) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term "average impaired driving fatality rate" means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 percent for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

(C) HIGH-RANGE STATE.—The term "high-range State" means a State that has an average impaired driving fatality rate of 0.60 or higher.

(D) LOW-RANGE STATE.—The term "low-range State" means a State that has an average impaired driving fatality rate of 0.30 or lower..

(E) MID-RANGE STATE.—The term "mid-range State" means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.

[(e) DISTRACTED DRIVING GRANTS.—

[(1) IN GENERAL.—The Secretary shall award a grant under this subsection to any State that enacts and enforces a statute that meets the requirements set forth in paragraphs (2) and (3).

[(2) PROHIBITION ON TEXTING WHILE DRIVING.—A State statute meets the requirements set forth in this paragraph if the statute—

[(A) prohibits drivers from texting through a personal wireless communications device while driving;

[(B) makes violation of the statute a primary offense; and

[(C) establishes—

[(i) a minimum fine for a first violation of the statute; and

[(ii) increased fines for repeat violations.

[(3) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING.—A State statute meets the requirements set forth in this paragraph if the statute—

[(A) prohibits a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

[(B) makes violation of the statute a primary offense;

[(C) requires distracted driving issues to be tested as part of the State driver's license examination; and

[(D) establishes—

[(i) a minimum fine for a first violation of the statute; and

[(ii) increased fines for repeat violations.

[(4) PERMITTED EXCEPTIONS.—A statute that meets the requirements set forth in paragraphs (2) and (3) may provide exceptions for—

[(A) a driver who uses a personal wireless communications device to contact emergency services;

[(B) emergency services personnel who use a personal wireless communications device while—

[(i) operating an emergency services vehicle; and

[(ii) engaged in the performance of their duties as emergency services personnel; and

[(C) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to section 31152 of title 49.

[(5) USE OF GRANT FUNDS.—Of the amounts received by a State under this subsection—

[(A) at least 50 percent shall be used—

[(i) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

[(ii) for traffic signs that notify drivers about the distracted driving law of the State; or

[(iii) for law enforcement costs related to the enforcement of the distracted driving law; and

[(B) up to 50 percent may be used for any eligible project or activity under section 402.

[(6) ADDITIONAL GRANTS.—In the first fiscal year that grants are awarded under this subsection, the Secretary may use up to 25 percent of the amounts available for grants under this subsection to award grants to States that—

[(A) enacted statutes before the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, which meet the requirements set forth in subparagraphs (A) and (B) of paragraph (2); and

[(B) are otherwise ineligible for a grant under this subsection.

[(7) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts available under this subsection in a fiscal year for distracted driving grants, the Secretary may expend up to $5,000,000 for the development and placement of broadcast media to support the enforcement of State distracted driving laws.

[(8) DISTRACTED DRIVING STUDY.—

[(A) IN GENERAL.—The Secretary shall conduct a study of all forms of distracted driving.

[(B) COMPONENTS.—The study conducted under subparagraph (A) shall—

[(i) examine the effect of distractions other than the use of personal wireless communications on motor vehicle safety;

[(ii) identify metrics to determine the nature and scope of the distracted driving problem;

[(iii) identify the most effective methods to enhance education and awareness; and

[(iv) identify the most effective method of reducing deaths and injuries caused by all forms of distracted driving.

[(C) REPORT.—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall submit a report containing the results of the study conducted under this paragraph to—

[(i) the Committee on Commerce, Science, and Transportation of the Senate; and

[(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

[(9) DEFINITIONS.—In this subsection:

[(A) DRIVING.—The term "driving"—

[(i) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and

[(ii) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

[(B) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term "personal wireless communications device"—

[(i) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

[(ii) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

[(C) PRIMARY OFFENSE.—The term "primary offense" means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

[(D) PUBLIC ROAD.—The term "public road" has the meaning given such term in section 402(c).

[(E) TEXTING.—The term "texting" means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.]

(e) DISTRACTED DRIVING GRANTS.—

(1) IN GENERAL.—The Secretary shall award a grant under this subsection to any State that includes distracted driving awareness as part of the State's driver's license examination, and enacts and enforces a law that meets the requirements set forth in paragraphs (2) and (3).

(2) PROHIBITION ON TEXTING WHILE DRIVING OR STOPPED IN TRAFFIC.—A State law meets the requirements set forth in this paragraph if the law—

(A) prohibits a driver from texting through a personal wireless communications device while driving or stopped in traffic;

(B) makes violation of the law a primary offense; and

(C) establishes a minimum fine for a violation of the law.

(3) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING OR STOPPED IN TRAFFIC.—A State law meets the requirements set forth in this paragraph if the law—

(A) prohibits a driver from using a personal wireless communications device while driving or stopped in traffic—

(i) younger than 18 years of age; or

(ii) in the learner's permit and intermediate license stages set forth in subsection (g)(2)(B);

(B) makes violation of the law a primary offense; and

(C) establishes a minimum fine for a first violation of the law.

(4) PERMITTED EXCEPTIONS.—A law that meets the requirements set forth in paragraph (2) or (3) may provide exceptions for—

(A) a driver who uses a personal wireless communications device to contact emergency services;

(B) emergency services personnel who use a personal wireless communications device while—

(i) operating an emergency services vehicle; and

(ii) engaged in the performance of their duties as emergency services personnel;

(C) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to section 31136 of title 49; and

(D) any additional exceptions determined by the Secretary through a rulemaking process.

(5) USE OF GRANT FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), amounts received by a State under this subsection shall be used—

(i) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

(ii) for traffic signs that notify drivers about the distracted driving law of the State; or

(iii) for law enforcement costs related to the enforcement of the distracted driving law.

(B) FLEXIBILITY.—

(i) Not more than 50 percent of amounts received by a State under this subsection may be used for any eligible project or activity under section 402.

(ii) Not more than 75 percent of amounts received by a State under this subsection may be used for any eligible project or activity under section 402 if the State has conformed its distracted driving data to the most recent Model Minimum Uniform Crash Criteria published by the Secretary.

(6) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts available under this subsection in a fiscal year for distracted driving grants, the Secretary may expend not more than $5,000,000 for the development and placement of

broadcast media to reduce distracted driving of motor vehicles, including to support campaigns related to distracted driving that are funded under section 404.

(7) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

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

(A) DRIVING.—The term "driving"—

(i) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and

(ii) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

(B) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term "personal wireless communications device"—

(i) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

(ii) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

(C) PRIMARY OFFENSE.—The term "primary offense" means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

(D) PUBLIC ROAD.—The term "public road" has the meaning given such term in section 402(c).

(E) TEXTING.—The term "texting" means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.

(f) MOTORCYCLIST SAFETY.—

(1) GRANTS AUTHORIZED.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement effective programs to reduce the number of single-and multi-vehicle crashes involving motorcyclists.

[(2) ALLOCATION.—The amount of a grant awarded to a State for a fiscal year under this subsection may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402.]

(2) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009, except that the amount of a grant awarded to a State for a fiscal year may not exceed 25 percent of the amount apportioned to the State under such section for fiscal year 2009.

(3) GRANT ELIGIBILITY.—A State becomes eligible for a grant under this subsection by adopting or demonstrating to the satisfaction of the Secretary, at least 2 of the following criteria:

(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, which—

(i) provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists; and

(ii) 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 purposes.

(4) ELIGIBLE USES.—

(A) IN GENERAL.—A State may use funds from a grant under this subsection only for motorcyclist safety training and motorcyclist awareness programs, including—

(i) improvements to motorcyclist safety training curricula;

(ii) 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;

(iii) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(iv) public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, [such as the] *including* "share-

the-road" safety messages [developed under subsection (g)].

(B) SUBALLOCATIONS OF FUNDS.—An agency of a State that receives a grant under this subsection may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out this subsection.

(C) FLEXIBILITY.—Not more than 50 percent of grant funds received by a State under this subsection may be used for any eligible project or activity under section 402 if the State is in the lowest 25 percent of all States for motorcycle deaths per 10,000 motorcycle registrations based on the most recent data that conforms with criteria established by the Secretary.

(5) DEFINITIONS.—In this subsection:

(A) MOTORCYCLIST AWARENESS.—The term "motorcyclist awareness" means individual or collective awareness of—

(i) the presence of motorcycles on or near roadways; and

(ii) safe driving practices that avoid injury to motorcyclists.

(B) 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.

(C) 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.

(D) STATE.—The term "State" has the meaning given such term in section 101(a) of title 23, United States Code.

(6) SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall update and provide to the States model language for use in traffic safety education courses, driver's manuals, and other driver training materials that provides instruction for drivers of motor vehicles on the importance of sharing the road safely with motorcyclists.

[(g) STATE GRADUATED DRIVER LICENSING INCENTIVE GRANT.—

[(1) GRANTS AUTHORIZED.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in paragraph (2).

[(2) MINIMUM REQUIREMENTS.—

[(A) IN GENERAL.—A State meets the requirements set forth in this paragraph if the State has a graduated driver licensing law that requires novice drivers younger than 21 years of age to comply with the 2-stage licensing process

described in subparagraph (B) before receiving an unrestricted driver's license.

[(B) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this subparagraph if the State's driver's license laws include—

[(i) a learner's permit stage that—

[(I) is at least 6 months in duration;

[(II) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation; and

[(III) remains in effect until the driver—

[(aa) reaches 16 years of age and enters the intermediate stage; or

[(bb) reaches 18 years of age;

[(ii) an intermediate stage that—

[(I) commences immediately after the expiration of the learner's permit stage;

[(II) is at least 6 months in duration;

[(III) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation;

[(IV) restricts driving at night;

[(V) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and

[(VI) remains in effect until the driver reaches 18 years of age; and

[(iii) any other requirement prescribed by the Secretary of Transportation, including—

[(I) in the learner's permit stage—

[(aa) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;

[(bb) a driver training course; and

[(cc) a requirement that the driver be accompanied and supervised by a licensed driver, who is at least 21 years of age, at all times while such driver is operating a motor vehicle; and

[(II) in the learner's permit or intermediate stage, a requirement, in addition to any other penalties imposed by State law, that the grant of an unrestricted driver's license be automatically delayed for any individual who, during the learner's permit or intermediate stage, is convicted of a driving-related offense, including—

[(aa) driving while intoxicated;

[(bb) misrepresentation of his or her true age;

[(cc) reckless driving;

[(dd) driving without wearing a seat belt;

[(ee) speeding; or

[(ff) any other driving-related offense, as determined by the Secretary.

[(3) RULEMAKING.—

[(A) IN GENERAL.—The Secretary shall promulgate regulations necessary to implement the requirements set forth in paragraph (2), in accordance with the notice and comment provisions under section 553 of title 5.

[(B) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in paragraph (2) shall be deemed by the Secretary to be in compliance with the requirement set forth in paragraph (2) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

[(i) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

[(ii) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

[(4) ALLOCATION.—Grant funds allocated to a State under this subsection for a fiscal year shall be in proportion to a State's apportionment under section 402 for such fiscal year.

[(5) USE OF FUNDS.—Of the grant funds received by a State under this subsection—

[(A) at least 25 percent shall be used for—

[(i) enforcing a 2-stage licensing process that complies with paragraph (2);

[(ii) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in clause (i);

[(iii) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

[(iv) carrying out other administrative activities that the Secretary considers relevant to the State's 2-stage licensing process; and

[(v) carrying out a teen traffic safety program described in section 402(m); and

[(B) up to 75 percent may be used for any eligible project or activity under section 402.]

(g) STATE GRADUATED DRIVER LICENSING INCENTIVE GRANT.—

(1) GRANTS AUTHORIZED.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in paragraph (2).

(2) MINIMUM REQUIREMENTS.—

(A) IN GENERAL.—A State meets the requirements set forth in this paragraph if the State has a graduated driver licensing law that requires novice drivers younger than 18 years of age to comply with the 2-stage licensing process described in subparagraph (B) before receiving an unrestricted driver's license.

(B) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this subparagraph if the State's driver's license laws comply with the

additional requirements under subparagraph (C) and includes—

(i) a learner's permit stage that—

(I) is not less than 6 months in duration and remains in effect until the driver reaches not less than 16 years of age;

(II) contains a prohibition on the driver using a personal wireless communications device (as defined in subsection (e)) while driving except under an exception permitted under subsection (e)(4);

(III) requires that the driver be accompanied and supervised at all times while operating a motor vehicle by a licensed driver who is—

(aa) not less than 21 years of age;

(bb) the driver's parent or guardian; or

(cc) a State-certified driving instructor; and

(IV) complies with the additional requirements for a learner's permit stage set forth in subparagraph (C)(i); and

(ii) an intermediate stage that—

(I) is not less than 6 months in duration;

(II) contains a prohibition on the driver using a personal wireless communications device (as defined in subsection (e)) while driving except under an exception permitted under subsection (e)(4);

(III) for the first 6 months of such stage, restricts driving at night when not supervised by a licensed driver described in clause (i)(III), excluding transportation to work, school, or religious activities, or in the case of an emergency;

(IV) for a period of not less than 6 months, prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger under 21 years of age unless a licensed driver described in clause (i)(III) is in the vehicle; and

(V) complies with the additional requirements for an intermediate stage set forth in subparagraph (C)(ii).

(C) ADDITIONAL REQUIREMENTS.—

(i) LEARNER'S PERMIT STAGE.—In addition to the requirements of subparagraph (B)(i), a learner's permit stage shall include not less than 2 of the following requirements:

(I) Passage of a vision and knowledge assessment by a learner's permit applicant prior to receiving a learner's permit.

(II) The driver completes—

(aa) a State-certified driver education or training course; or

(bb) not less than 40 hours of behind-the-wheel training with a licensed driver described in subparagraph (B)(i)(III).

(III) In addition to any other penalties imposed by State law, the grant of an unrestricted driver's license or advancement to an intermediate stage be

automatically delayed for any individual who, during the learner's permit stage, is convicted of a driving-related offense, including—

(aa) driving while intoxicated;

(bb) misrepresentation of the individual's age;

(cc) reckless driving;

(dd) driving without wearing a seatbelt;

(ee) speeding; or

(ff) any other driving-related offense, as determined by the Secretary.

(ii) INTERMEDIATE STAGE.—In addition to the requirements of subparagraph (B)(ii), an intermediate stage shall include not less than 2 of the following requirements:

(I) Commencement of such stage after the successful completion of a driving skills test.

(II) That such stage remain in effect until the driver reaches the age of not less than 17.

(III) In addition to any other penalties imposed by State law, the grant of an unrestricted driver's license be automatically delayed for any individual who, during the learner's permit stage, is convicted of a driving-related offense, including those described in clause (i)(III).

(3) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in paragraph (2) shall be deemed by the Secretary to be in compliance with the requirement set forth in paragraph (2) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

(A) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

(B) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

(4) ALLOCATION.—Grant funds allocated to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(5) USE OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), grant funds received by a State under this subsection shall be used for—

(i) enforcing a 2-stage licensing process that complies with paragraph (2);

(ii) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in clause (i);

(iii) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

(iv) carrying out other administrative activities that the Secretary considers relevant to the State's 2-stage licensing process; or

(v) carrying out a teen traffic safety program described in section 402(m).

(B) FLEXIBILITY.—

(i) Not more than 75 percent of grant funds received by a State under this subsection may be used for any eligible project or activity under section 402.

(ii) Not more than 100 percent of grant funds received by a State under this subsection may be used for any eligible project or activity under section 402, if the State is in the lowest 25 percent of all States for the number of drivers under age 18 involved in fatal crashes in the State per the total number of drivers under age 18 in the State based on the most recent data that conforms with criteria established by the Secretary.

(h) NONMOTORIZED SAFETY.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary shall award grants to States for the purpose of decreasing pedestrian and bicycle fatalities and injuries that result from crashes involving a motor vehicle.

(2) FEDERAL SHARE.—The Federal share of the cost of a project carried out by a State using amounts from a grant awarded under this subsection may not exceed 80 percent.

(3) ELIGIBILITY.—A State shall receive a grant under this subsection in a fiscal year if the annual combined pedestrian and bicycle fatalities in the State exceed 15 percent of the total annual crash fatalities in the State, based on the most recently reported final data from the Fatality Analysis Reporting System.

(4) USE OF GRANT AMOUNTS.—Grant funds received by a State under this subsection may be used for—

(A) training of law enforcement officials on State laws applicable to pedestrian and bicycle safety;

(B) enforcement mobilizations and campaigns designed to enforce State traffic laws applicable to pedestrian and bicycle safety; and

(C) public education and awareness programs designed to inform motorists, pedestrians, and bicyclists of State traffic laws applicable to pedestrian and bicycle safety.

(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

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CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION

Sec.
501. Definitions.

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[512. National ITS Program Plan.]

512. National ITS program plan.

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519. Infrastructure development.

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§ 502. Surface transportation research, development, and technology

(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

(1) APPLICABILITY.—The research, development, and technology provisions of this section shall apply throughout this chapter.

(2) COVERAGE.—Surface transportation research and technology development shall include all activities within the innovation lifecycle leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices, and approaches, through such mechanisms as field applications, education and training, communications, impact analysis, and technical support.

(3) 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) is of national significance;

(B) delivers a clear public benefit and occurs where private sector investment is less than optimal;

(C) supports a Federal stewardship role in assuring that State and local governments use national resources efficiently;

(D) meets and addresses current or emerging needs;

(E) addresses current gaps in research;

(F) presents the best means to align resources with multiyear plans and priorities;

(G) ensures the coordination of highway research and technology transfer activities, including through activities performed by university transportation centers;

(H) educates transportation professionals; or

(I) presents the best means to support Federal policy goals compared to other policy alternatives.

(4) ROLE.—Consistent with these Federal responsibilities, the Secretary shall—

(A) conduct research;

(B) partner with State highway agencies and other stakeholders as appropriate to facilitate research and technology transfer activities;

(C) communicate the results of ongoing and completed research;

(D) lead efforts to coordinate national emphasis areas of highway research, technology, and innovation deployment;

(E) leverage partnerships with industry, academia, international entities, and State departments of transportation;

(F) lead efforts to reduce unnecessary duplication of effort; and

(G) lead efforts to accelerate innovation delivery.

(5) PROGRAM CONTENT.—A surface transportation research program shall include—

(A) fundamental, long-term highway research;

(B) research aimed at significant highway research gaps and emerging issues with national implications; and

(C) research related to all highway objectives seeking to improve the performance of the transportation system.

(6) 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) COMPETITION AND PEER REVIEW.—Except as otherwise provided in this chapter, the Secretary shall award, to the maximum extent practicable, all grants, contracts, and cooperative agreements for research and development under this chapter based on open competition and peer review of proposals.

(8) PERFORMANCE REVIEW AND EVALUATION.—

(A) IN GENERAL.—To the maximum 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 possible, 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.

(9) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the transportation research and technology development strategic plan developed under section 508.

(b) GENERAL AUTHORITY.—

(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

(A) motor carrier transportation;

(B) all phases of transportation planning and development (including construction, operation, transportation system management and operations, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

(C) the effect of State laws on the activities described in subparagraphs (A) and (B).

(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process.

(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out research, development, and technology transfer activities related to transportation—

(A) independently;

(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

(C) by making grants to, or entering into contracts and cooperative agreements with one or more of the following: the National Academy of Sciences, the American Association of State Highway and Transportation Officials, any Federal laboratory, Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or any other person.

(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the transportation research and development strategic plan of the Secretary developed under section 508.

(5) FUNDS.—

(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this 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 chapter to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this chapter.

(6) POOLED FUNDING.—

(A) COOPERATION.—To promote effective utilization of available resources, the Secretary may cooperate with a State and an appropriate agency in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

(B) SECRETARY AS AGENT.—The Secretary may enter into contracts, cooperative agreements, and grants as the agent for all participating parties in carrying out such research, development, or technology transfer activities.

(C) TRANSFER OF AMOUNTS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer amounts apportioned or allocated to that State under this chapter to another State or the Federal Highway Administration to fund research, development, and technology transfer activities of mutual interest on a pooled funds basis.

(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be disbursed in the same manner and for the same amount as provided for the project being transferred.

(7) PRIZE COMPETITIONS.—

(A) IN GENERAL.—The Secretary may use up to 1 percent of the funds made available under section 51001 of the Transportation Research and Innovative Technology Act of 2012 to carry out a program to competitively award cash prizes to stimulate innovation in basic and applied re-

search and technology development that has the potential for application to the national transportation system.

(B) TOPICS.—In selecting topics for prize competitions under this paragraph, the Secretary shall—

(i) consult with a wide variety of governmental and nongovernmental representatives; and

(ii) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

(C) ADVERTISING.—The Secretary shall encourage participation in the prize competitions through advertising efforts.

(D) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Secretary shall publish a notice on a public website *(such as www.challenge.gov)* that describes—

(i) the subject of the competition;

(ii) the eligibility rules for participation in the competition;

(iii) the process for participants to register for the competition;

[(iii)] *(iv)* the amount of the [prize] *cash prize purse*; and

[(iv)] *(v)* the basis on which a winner will be selected.

(E) ELIGIBILITY.—An individual or entity may not receive a [prize] *cash prize purse* under this paragraph unless the individual or entity—

(i) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;

(ii) has complied with all requirements under this paragraph;

(iii)(I) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or

(II) in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States;

(iv) is not a Federal entity or Federal employee acting within the scope of his or her employment; and

(v) has not received a grant to perform research on the same issue for which the [prize] *cash prize purse* is awarded.

(F) USE OF FEDERAL FACILITIES; CONSULTATION WITH FEDERAL EMPLOYEES.—An individual or entity is not ineligible to receive a cash prize purse under this paragraph as a result of the individual or entity using a Federal facility or consulting with a Federal employee related to the individual or entity's participation in a prize competition under this paragraph unless the same facility or employee is made available to all individuals and entities participating in the prize competition on an equitable basis.

[(F)] *(G)* LIABILITY.—

(i) ASSUMPTION OF RISK.—

(I) IN GENERAL.—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a [competition] *prize competition under this paragraph*, whether such injury, death, damage, or loss arises through negligence or otherwise.

(II) RELATED ENTITY.—In this subparagraph, the term "related entity" means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

(ii) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

(I) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with [participation in a competition] *participation in a prize competition under this paragraph*, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to [competition activities] *prize competition activities*; and

(II) the Federal Government for damage or loss to Government property resulting from such an activity.

(iii) INTELLECTUAL PROPERTY.—

(I) PROHIBITION ON REQUIRING WAIVER.—The Secretary may not require a participant to waive claims against the Department arising out of the unauthorized use or disclosure by the Department of the intellectual property, trade secrets, or confidential business information of the participant.

(II) PROHIBITION ON GOVERNMENT ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.—The Federal Government may not gain an interest in intellectual property developed by a participant for a prize competition under this paragraph without the written consent of the participant.

(III) LICENSES.—The Federal Government may negotiate a license for the use of intellectual property developed by a participant for a prize competition under this paragraph.

[(G)] *(H)* JUDGES.—

(i) SELECTION.—Subject to clause (iii), for each prize competition, the Secretary, either directly or through an agreement under [subparagraph (H)] *subparagraph (I)*, may appoint 1 or more qualified judges to select the winner or winners of the prize competition

on the basis of the criteria described in subparagraph (D).

(ii) SELECTION.—Judges for each competition shall include individuals from outside the Federal Government, including the private sector.

(iii) LIMITATIONS.—A judge selected under this subparagraph may not—

(I) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in a prize competition under this paragraph; or

(II) have a familial or financial relationship with an individual who is a registered participant.

[(H)] *(I)* ADMINISTERING THE COMPETITION.—The Secretary may enter into [an agreement with a private, nonprofit entity] *a grant, contract, cooperative agreement, or other agreement with a private sector for-profit or nonprofit entity* to administer the prize competition, subject to the provisions of this paragraph.

[(I)] *(J)* FUNDING.—

(i) IN GENERAL.—

(I) PRIVATE SECTOR FUNDING.—A cash prize under this paragraph may consist of funds appropriated by the Federal Government and funds provided by [the private sector] *private sector for-profit and nonprofit entities, to be available to the extent provided by appropriations Acts*.

(II) GOVERNMENT FUNDING.—The Secretary may accept funds from other Federal agencies, State and local governments, [and metropolitan planning organizations] *metropolitan planning organizations, and private sector for-profit and nonprofit entities* for a cash prize under this paragraph.

(III) NO SPECIAL CONSIDERATION.—The Secretary may not give any special consideration to any private sector *for-profit or nonprofit* entity in return for a donation under this subparagraph.

(ii) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for [prize awards] *cash prize purses* under this paragraph—

(I) shall remain available until expended; and

(II) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

(iii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

(iv) PRIZE ANNOUNCEMENT.—A prize *competition* may not be announced under this paragraph until all the funds needed to pay out the announced amount of [the prize] *the cash prize purse* have been appro-

priated by a governmental source or committed to in writing by a private source.

(v) PRIZE INCREASES.—The Secretary may increase the [amount of a prize] *amount of a cash prize purse* after the initial announcement of the prize *competition* under this paragraph if—

(I) notice of the increase is provided in the same manner as the initial notice of the prize *competition*; and

(II) the funds needed to pay out the announced amount of the increase have been appropriated by a governmental source or committed to in writing by a private source.

(vi) CONGRESSIONAL NOTIFICATION.—A prize competition under this paragraph may [offer a prize] *offer a cash prize purse* in an amount greater than $1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives.

(vii) AWARD LIMIT.—A prize competition under this section may not result in the award of more than $25,000 in [cash prizes] *cash prize purses* without the approval of the Secretary.

[(J)] *(K)* COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering [or providing a prize] *a prize competition or providing a cash prize purse* under this paragraph, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.

[(K)] *(L)* NOTICE AND ANNUAL REPORT.—

(i) IN GENERAL.—Not later than 30 days prior to carrying out an activity under subparagraph (A), the Secretary shall notify 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 of the intent to use such authority.

(ii) REPORTS.—

(I) IN GENERAL.—[The Secretary] *Not later than March 1 of each year, the Secretary* shall submit to the committees described in clause (i) on an annual basis a report on the activities carried out under subparagraph (A) in the preceding fiscal year if the Secretary exercised the authority under subparagraph (A) in that fiscal year.

(II) INFORMATION INCLUDED.—A report under this subparagraph shall include, for each prize competition under subparagraph (A)—

(aa) a description of the proposed goals of the prize competition;

(bb) an analysis of why the use of the authority under subparagraph (A) was the preferable method of achieving the goals described in item (aa) as opposed to other authorities available to the Secretary, such as contracts, grants, and cooperative agreements;

(cc) the total amount of [cash prizes] *cash prize purses* awarded for each prize competition, including a description of the amount of private funds contributed to the program, the source of such funds, and the manner in which the amounts of [cash prizes] *cash prize purses* awarded and claimed were allocated among the accounts of the Department for recording as obligations and expenditures;

(dd) 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;

(ee) 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] *Department* for recording as obligations and expenditures; and

(ff) a description of how each prize competition advanced the mission of the Department.

(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State; and

(B) Federal laboratories.

(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) 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, and their agents to conduct joint transportation research and technology efforts.

(3) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and develop-

ment agreement entered into under this chapter shall not exceed 80 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this 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.).

(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101(b) to (d) of title 41 shall not apply to a contract or agreement entered into under this chapter.

§ 503. Research and technology development and deployment

(a) IN GENERAL.—The Secretary shall—

(1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and

(2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary under section 508.

(b) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—

(1) OBJECTIVES.—In carrying out the highway research and development program, the Secretary, to address current and emerging highway transportation needs, shall—

(A) identify research topics;

(B) coordinate research and development activities;

(C) carry out research, testing, and evaluation activities; and

(D) provide technology transfer and technical assistance.

(2) IMPROVING HIGHWAY SAFETY.—

(A) IN GENERAL.—The Secretary shall carry out research and development activities from an integrated perspective to establish and implement systematic measures to improve highway safety.

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities—

(i) to achieve greater long-term safety gains;

(ii) to reduce the number of fatalities and serious injuries on public roads;

(iii) to fill knowledge gaps that limit the effectiveness of research;

(iv) to support the development and implementation of State strategic highway safety plans;

(v) to advance improvements in, and use of, performance prediction analysis for decisionmaking; and

(vi) to expand technology transfer to partners and stakeholders.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) safety assessments and decisionmaking tools;

(ii) data collection and analysis;

(iii) crash reduction projections;

(iv) low-cost safety countermeasures;

(v) innovative operational improvements and designs of roadway and roadside features;

(vi) evaluation of countermeasure costs and benefits;

(vii) development of tools for projecting impacts of safety countermeasures;

(viii) rural road safety measures;

(ix) safety measures for vulnerable road users, including bicyclists and pedestrians;

(x) safety policy studies;

(xi) human factors studies and measures;

(xii) safety technology deployment;

(xiii) safety workforce professional capacity building initiatives;

(xiv) safety program and process improvements; and

(xv) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

(3) IMPROVING INFRASTRUCTURE INTEGRITY.—

(A) IN GENERAL.—The Secretary shall carry out and facilitate highway and bridge infrastructure research and development activities—

(i) to maintain infrastructure integrity;

(ii) to meet user needs; and

(iii) to link Federal transportation investments to improvements in system performance.

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities—

(i) to reduce the number of fatalities attributable to infrastructure design characteristics and work zones;

(ii) to improve the safety and security of highway infrastructure;

(iii) to increase the reliability of lifecycle performance predictions used in infrastructure design, construction, and management;

(iv) to improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

(v) to reduce user delay attributable to infrastructure system performance, maintenance, rehabilitation, and construction;

(vi) to improve highway condition and performance through increased use of design, materials, construction, and maintenance innovations;

(vii) to reduce the environmental impacts of highway infrastructure through innovations in design, construction, operation, preservation, and maintenance; and

(viii) to study vulnerabilities of the transportation system to seismic activities and extreme events and methods to reduce those vulnerabilities.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

(ii) short-term and accelerated studies of infrastructure performance;

(iii) research to develop more durable infrastructure materials and systems;

(iv) advanced infrastructure design methods;

(v) accelerated highway and bridge construction;

(vi) performance-based specifications;

(vii) construction and materials quality assurance;

(viii) comprehensive and integrated infrastructure asset management;

(ix) infrastructure safety assurance;

(x) sustainable infrastructure design and construction;

(xi) infrastructure rehabilitation and preservation techniques, including techniques to rehabilitate and preserve historic infrastructure;

(xii) hydraulic, geotechnical, and aerodynamic aspects of infrastructure;

(xiii) improved highway construction technologies and practices;

(xiv) improved tools, technologies, and models for infrastructure management, including assessment and monitoring of infrastructure condition;

(xv) studies to improve flexibility and resiliency of infrastructure systems to withstand climate variability;

(xvi) studies on the effectiveness of fiber-based additives to improve the durability of surface transportation materials in various geographic regions;

(xvii) studies of infrastructure resilience and other adaptation measures;

(xviii) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to seismic activity and methods to reduce that vulnerability; **[**and**]**

(xix) 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**[**.**]***; and*

(xx) corrosion prevention measures for the structural integrity of bridges.

(D) LIFECYCLE COSTS ANALYSIS STUDY.—

(i) IN GENERAL.—In this subparagraph, the term "lifecycle costs analysis" means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

(ii) STUDY.—The Comptroller General shall conduct a study of the best practices for calculating lifecycle costs and benefits for federally funded highway projects, which shall include, at a minimum, a thorough literature review and a survey of current lifecycle cost practices of State departments of transportation.

(iii) CONSULTATION.—In carrying out the study, the Comptroller shall consult with, at a minimum—

(I) the American Association of State Highway and Transportation Officials;

(II) appropriate experts in the field of lifecycle cost analysis; and

(III) appropriate industry experts and research centers.

(E) REPORT.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives a report on the results of the study which shall include—

(i) a summary of the latest research on lifecycle cost analysis; and

(ii) recommendations on the appropriate—

(I) period of analysis;

(II) design period;

(III) discount rates; and

(IV) use of actual material life and maintenance cost data.

(4) STRENGTHENING TRANSPORTATION PLANNING AND ENVIRONMENTAL DECISIONMAKING.—

(A) IN GENERAL.—The Secretary may carry out research—

(i) to minimize the cost of transportation planning and environmental decisionmaking processes;

(ii) to improve transportation planning and environmental decisionmaking processes; and

(iii) to minimize the potential impact of surface transportation on the environment.

(B) OBJECTIVES.—In carrying out this paragraph the Secretary may carry out research and development activities—

(i) to minimize the cost of highway infrastructure and operations;

(ii) to reduce the potential impact of highway infrastructure and operations on the environment;

(iii) to advance improvements in environmental analyses and processes and context sensitive solutions for transportation decisionmaking;

(iv) to improve construction techniques;

(v) to accelerate construction to reduce congestion and related emissions;

(vi) to reduce the impact of highway runoff on the environment;

(vii) to improve understanding and modeling of the factors that contribute to the demand for transportation; and

(viii) to improve transportation planning decisionmaking and coordination.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) creation of models and tools for evaluating transportation measures and transportation system designs, including the costs and benefits;

(ii) congestion reduction efforts;

(iii) transportation and economic development planning in rural areas and small communities;

(iv) improvement of State, local, and tribal government capabilities relating to surface transportation planning and the environment; and

(v) streamlining of project delivery processes.

(5) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

(A) IN GENERAL.—The Secretary shall carry out research under this paragraph with the goals of—

(i) addressing congestion problems;

(ii) reducing the costs of congestion;

(iii) improving freight movement;

(iv) increasing productivity; and

(v) improving the economic competitiveness of the United States.

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities to identify, develop, and assess innovations that have the potential—

(i) to reduce traffic congestion;

(ii) to improve freight movement; and

(iii) to reduce freight-related congestion throughout the transportation network.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) active traffic and demand management;

(ii) acceleration of the implementation of Intelligent Transportation Systems technology;

(iii) advanced transportation concepts and analysis;

(iv) arterial management and traffic signal operation;

(v) congestion pricing;

(vi) corridor management;

(vii) emergency operations;

(viii) research relating to enabling technologies and applications;

(ix) freeway management;

(x) evaluation of enabling technologies;

(xi) impacts of vehicle size and weight on congestion;

(xii) freight operations and technology;

(xiii) operations and freight performance measurement and management;

(xiv) organization and planning for operations;

(xv) planned special events management;

(xvi) real-time transportation information;

(xvii) road weather management;

(xviii) traffic and freight data and analysis tools;

(xix) traffic control devices;

(xx) traffic incident management;

(xxi) work zone management;

(xxii) communication of travel, roadway, and emergency information to persons with disabilities;

(xxiii) research on enhanced mode choice and intermodal connectivity;

(xxiv) techniques for estimating and quantifying public benefits derived from freight transportation projects; and

(xxv) other research areas to identify and address emerging needs related to freight transportation by all modes.

(6) EXPLORATORY ADVANCED RESEARCH.—The Secretary shall carry out research and development activities relating to exploratory advanced research—

(A) to leverage the targeted capabilities of the Turner-Fairbank Highway Research Center to develop technologies and innovations of national importance; and

(B) to develop potentially transformational solutions to improve the durability, efficiency, environmental impact, productivity, and safety aspects of highway and intermodal transportation systems.

(7) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

(A) IN GENERAL.—The Secretary shall continue to operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

(B) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—

(i) the conduct of highway research and development relating to emerging highway technology;

(ii) 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;

(iii) the development of innovative highway products and practices; and

(iv) the conduct of long-term, high-risk research to improve the materials used in highway infrastructure.

(8) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

(A) IN GENERAL.—Not later than July 31, 2013, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of current highway and bridge needs.

(B) COMPARISONS.—Each report under subparagraph (A) shall include all information necessary to relate and compare the conditions and service measures used in the previous biennial reports to conditions and service measures used in the current report.

(C) INCLUSIONS.—Each report under subparagraph (A) shall provide recommendations to Congress on changes to the highway performance monitoring system that address—

(i) improvements to the quality and standardization of data collection on all functional classifications of Federal-aid highways for accurate system length, lane length, and vehicle-mile of travel; and

(ii) changes to the reporting requirements authorized under section 315, to reflect recommendations under this paragraph for collection, storage, analysis, reporting, and display of data for Federal-aid highways and, to the maximum extent practical, all public roads.

(c) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing, operation, structures, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

(A) significantly accelerating the adoption of innovative technologies by the surface transportation community;

(B) providing leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction;

(C) constructing longer-lasting highways through the use of innovative technologies and practices that lead to faster construction of efficient and safe highways and bridges;

(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; and

(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

(2) IMPLEMENTATION.—

(A) IN GENERAL.—The Secretary shall promote, facilitate, and carry out the program established under paragraph (1) to distribute the products, technologies, tools, methods,

or other findings that result from highway research and development activities, including research and development activities carried out under this chapter.

(B) ACCELERATED INNOVATION DEPLOYMENT.—In carrying out the program established under paragraph (1), the Secretary shall—

(i) establish and carry out demonstration programs;

(ii) provide technical assistance, and training to researchers and developers; and

(iii) develop improved tools and methods to accelerate the adoption of proven innovative practices and technologies as standard practices.

(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

(i) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the Transportation Research Board of the National Academy of Sciences, shall promote research results and products developed under the future strategic highway research program administered by the Transportation Research Board of the National Academy of Sciences.

(ii) BASIS FOR FINDINGS.—The activities carried out under this subparagraph shall be based on the report submitted to Congress by the Transportation Research Board of the National Academy of Sciences under section 510(e).

(iii) PERSONNEL.—The Secretary may use funds made available to carry out this subsection for administrative costs under this subparagraph.

(3) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF PAVEMENT TECHNOLOGIES.—

(A) IN GENERAL.—The Secretary shall establish and implement a program under the technology and innovation deployment program to promote, implement, deploy, demonstrate, showcase, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

(B) GOALS.—The goals of the accelerated implementation and deployment of pavement technologies program shall include—

(i) the deployment of new, cost-effective designs, materials, recycled materials, and practices to extend the pavement life and performance and to improve user satisfaction;

(ii) the reduction of initial costs and lifecycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

(iii) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

(iv) the deployment of engineering design criteria and specifications for new and efficient practices, products, and materials for use in highway pavements;

(v) the deployment of new nondestructive and real-time pavement evaluation technologies and construction techniques; and

(vi) effective technology transfer and information dissemination to accelerate implementation of new technologies and to improve life, performance, cost effectiveness, safety, and user satisfaction.

(C) FUNDING.—The Secretary shall obligate for each of fiscal years [2013 through 2014] *2016 through 2021* from funds made available to carry out this subsection $12,000,000 to accelerate the deployment and implementation of pavement technology.

(D) PUBLICATION.—The Secretary shall make available to the public on an Internet Web site on an annual basis a report on the cost and benefits from deployment of new technology and innovations that substantially and directly resulted from the program established under this paragraph. The report may include an analysis of—

(i) Federal, State, and local cost savings;

(ii) project delivery time improvements;

(iii) reduced fatalities; and

(iv) congestion impacts.

(4) ADVANCED TRANSPORTATION TECHNOLOGIES DEPLOYMENT.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Secretary shall establish an advanced transportation and congestion management technologies deployment initiative to provide grants to eligible entities to develop model deployment sites for large scale installation and operation of advanced transportation technologies to improve safety, efficiency, system performance, and infrastructure return on investment.

(B) CRITERIA.—The Secretary shall develop criteria for selection of an eligible entity to receive a grant under this paragraph, including how the deployment of technology will—

(i) reduce costs and improve return on investments, including through the enhanced use of existing transportation capacity;

(ii) deliver environmental benefits that alleviate congestion and streamline traffic flow;

(iii) measure and improve the operational performance of the applicable transportation network;

(iv) reduce the number and severity of traffic crashes and increase driver, passenger, and pedestrian safety;

(v) collect, disseminate, and use real-time traffic, transit, parking, and other transportation-related information to improve mobility, reduce congestion, and provide for more efficient and accessible transportation;

(vi) monitor transportation assets to improve infrastructure management, reduce maintenance costs, prioritize investment decisions, and ensure a state of good repair;

(vii) deliver economic benefits by reducing delays, improving system performance, and providing for the efficient and reliable movement of goods and services; or

(viii) accelerate the deployment of vehicle-to-vehicle, vehicle-to-infrastructure, autonomous vehicles, and other technologies.

(C) APPLICATIONS.—

(i) REQUEST.—Not later than 6 months after the date of enactment of this paragraph, and for every fiscal year thereafter, the Secretary shall request applications in accordance with clause (ii).

(ii) CONTENTS.—An application submitted under this subparagraph shall include the following:

(I) PLAN.—A plan to deploy and provide for the long-term operation and maintenance of advanced transportation and congestion management technologies to improve safety, efficiency, system performance, and return on investment.

(II) OBJECTIVES.—Quantifiable system performance improvements, such as—

(aa) reducing traffic-related crashes, congestion, and costs;

(bb) optimizing system efficiency; and

(cc) improving access to transportation services.

(III) RESULTS.—Quantifiable safety, mobility, and environmental benefit projections such as data-driven estimates of how the project will improve the region's transportation system efficiency and reduce traffic congestion.

(IV) PARTNERSHIPS.—A plan for partnering with the private sector or public agencies, including multimodal and multijurisdictional entities, research institutions, organizations representing transportation and technology leaders, or other transportation stakeholders.

(V) LEVERAGING.—A plan to leverage and optimize existing local and regional advanced transportation technology investments.

(D) GRANT SELECTION.—

(i) GRANT AWARDS.—Not later than 1 year after the date of enactment of this paragraph, and for every fiscal year thereafter, the Secretary shall award grants to not less than 5 and not more than 8 eligible entities.

(ii) GEOGRAPHIC DIVERSITY.—In awarding a grant under this paragraph, the Secretary shall ensure, to the extent practicable, that grant recipients represent diverse geographic areas of the United States.

(E) USE OF GRANT FUNDS.—A grant recipient may use funds awarded under this paragraph to deploy advanced transportation and congestion management technologies, including—

(i) advanced traveler information systems;

(ii) advanced transportation management technologies;

(iii) infrastructure maintenance, monitoring, and condition assessment;

(iv) advanced public transportation systems;

(v) transportation system performance data collection, analysis, and dissemination systems;

(vi) advanced safety systems, including vehicle-to-vehicle and vehicle-to-infrastructure communications, technologies associated with autonomous vehicles, and other collision avoidance technologies, including systems using cellular technology;

(vii) integration of intelligent transportation systems with the Smart Grid and other energy distribution and charging systems;

(viii) electronic pricing and payment systems; or

(ix) advanced mobility and access technologies, such as dynamic ridesharing and information systems to support human services for elderly and disabled individuals.

(F) REPORT TO SECRETARY.—Not later than 1 year after an eligible entity receives a grant under this paragraph, and each year thereafter, the entity shall submit a report to the Secretary that describes—

(i) deployment and operational costs of the project compared to the benefits and savings the project provides; and

(ii) how the project has met the original expectations projected in the deployment plan submitted with the application, such as—

(I) data on how the project has helped reduce traffic crashes, congestion, costs, and other benefits of the deployed systems;

(II) data on the effect of measuring and improving transportation system performance through the deployment of advanced technologies;

(III) the effectiveness of providing real-time integrated traffic, transit, and multimodal transportation information to the public to make informed travel decisions; and

(IV) lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

(G) REPORT.—Not later than 3 years after the date that the first grant is awarded under this paragraph, and each year thereafter, the Secretary shall make available to the public on an Internet Web site a report that describes the effectiveness of grant recipients in meeting their projected deployment plans, including data provided under subparagraph (F) on how the program has—

(i) reduced traffic-related fatalities and injuries;

(ii) reduced traffic congestion and improved travel time reliability;

(iii) reduced transportation-related emissions;

(iv) optimized multimodal system performance;

(v) improved access to transportation alternatives;

(vi) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;

(vii) provided cost savings to transportation agencies, businesses, and the traveling public; or

(viii) provided other benefits to transportation users and the general public.

(H) ADDITIONAL GRANTS.—The Secretary may cease to provide additional grant funds to a recipient of a grant under this paragraph if—

(i) the Secretary determines from such recipient's report that the recipient is not carrying out the requirements of the grant; and

(ii) the Secretary provides written notice 60 days prior to withholding funds to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(I) FUNDING.—

(i) IN GENERAL.—From funds made available to carry out section 503(b), this subsection, and sections 512 through 518, the Secretary shall set aside for grants awarded under subparagraph (D) $75,000,000 for each of fiscal years 2016 through 2021.

(ii) EXPENSES FOR THE SECRETARY.—Of the amounts set aside under clause (i), the Secretary may set aside $2,000,000 each fiscal year for program reporting, evaluation, and administrative costs related to this paragraph.

(J) FEDERAL SHARE.—The Federal share of the cost of a project for which a grant is awarded under this subsection shall not exceed 50 percent of the cost of the project.

(K) GRANT LIMITATION.—The Secretary may not award more than 20 percent of the amount described under subparagraph (I) in a fiscal year to a single grant recipient.

(L) EXPENSES FOR GRANT RECIPIENTS.—A grant recipient under this paragraph may use not more than 5 percent of the funds awarded each fiscal year to carry out planning and reporting requirements.

(M) GRANT FLEXIBILITY.—

(i) IN GENERAL.—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications that meet the requirements described in subparagraph (C) to carry out this section for a fiscal year, the Secretary shall transfer to the programs specified in clause (ii)—

(I) any of the funds reserved for the fiscal year under subparagraph (I) that the Secretary has not yet awarded under this paragraph; and

(II) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under subclause (I).

(ii) PROGRAMS.—The programs referred to in clause (i) are—

(I) the program under section 503(b);

(II) the program under section 503(c); and

(III) the programs under sections 512 through 518.

(iii) DISTRIBUTION.—Any transfer of funds and obligation limitation under clause (i) shall be divided among the programs referred to in that clause in the same proportions as the Secretary originally reserved funding from the programs for the fiscal year under subparagraph (I).

(N) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) ELIGIBLE ENTITY.—The term "eligible entity" means a State or local government, a transit agency, metropolitan planning organization representing a population of over 200,000, or other political subdivision of a State or local government or a multijurisdictional group or a consortia of research institutions or academic institutions.

(ii) ADVANCED AND CONGESTION MANAGEMENT TRANSPORTATION TECHNOLOGIES.—The term "advanced transportation and congestion management technologies" means technologies that improve the efficiency, safety, or state of good repair of surface transportation systems, including intelligent transportation systems.

(iii) MULTIJURISDICTIONAL GROUP.—The term "multijurisdictional group" means a any combination of State governments, locals governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State for which each member of the group—

(I) has signed a written agreement to implement the advanced transportation technologies deployment initiative across jurisdictional boundaries; and

(II) is an eligible entity under this paragraph.

§ 504. Training and education

(a) NATIONAL HIGHWAY INSTITUTE.—

(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a National Highway Institute (in this subsection referred to as the "Institute"). The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

(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 and the employees of any other applicable Federal agency;

(B) regional, State, and metropolitan planning organizations;

(C) State and local police, public safety, and motor vehicle employees; and

(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

(3) COURSES.—

(A) IN GENERAL.—The Institute shall—

(i) develop or update existing courses in asset management, including courses that include such components as—

(I) the determination of life-cycle costs;

(II) the valuation of assets;

(III) benefit-to-cost ratio calculations; and

(IV) objective decisionmaking processes for project selection; and

(ii) continually develop courses relating to the application of emerging technologies for—

(I) transportation infrastructure applications and asset management;

(II) intelligent transportation systems;

(III) operations (including security operations);

(IV) the collection and archiving of data;

(V) reducing the amount of time required for the planning and development of transportation projects; and

(VI) the intermodal movement of individuals and freight.

(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

(i) review the course inventory of the Institute; and

(ii) revise or cease to offer courses based on course content, applicability, and need.

(4) SET-ASIDE; FEDERAL SHARE.—Not to exceed 1/2 of 1 percent of the funds apportioned to a State under section ⟦104(b)(3)⟧ *104(b)(2)* for the ⟦surface transportation program⟧ *surface transportation block grant program* shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

(5) FEDERAL RESPONSIBILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State,

and local transportation (including highway) agencies authorized under this subsection may be provided—

(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

(7) COLLECTION OF FEES.—

(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

(ii) persons and entities to whom education or training is provided under this subsection.

(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under paragraph (7).

(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

(A) highway and transportation agencies in urbanized and rural areas;

(B) contractors that perform work for the agencies; and

(C) infrastructure security staff.

(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

(ii) improve roads and bridges;

(iii) enhance—

(I) programs for the movement of passengers and freight; and

(II) intergovernmental transportation planning and project selection; and

(iv) deal effectively with special transportation- related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

(B) develop technical assistance for tourism and recreational travel;

(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

(D) operate, in cooperation with State transportation departments and universities—

(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

(3) FEDERAL SHARE.—

(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—

(i) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent.

(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity described in clause (i) may consist of amounts provided to a recipient under subsection (e) or section 505, up to 100 percent of the non-Federal share.

(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of an activity carried out by a tribal technical assistance center under paragraph (2)(D)(ii) shall be 100 percent.

(c) RESEARCH FELLOWSHIPS.—

(1) GENERAL AUTHORITY.—The Secretary, acting either independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation, which program shall be known as the "Dwight David Eisenhower Transportation Fellowship Program".

(B) USE OF AMOUNTS.—Amounts provided to institutions of higher education to carry out this paragraph shall be used to provide direct support of student expenses.

(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 section 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) 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 paragraphs (1) through (4) of section 104(b) for surface transportation workforce development, training, and education, including—

(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

(B) employee professional development;

(C) student internships;

(D) university or community college support;

(E) education activities, including outreach, to develop interest and promote participation in surface transportation careers;

(F) activities carried out by the National Highway Institute under subsection (a); and

(G) local technical assistance programs 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.

(3) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION DEFINED.—In this subsection, the term "surface transportation workforce development, training, and education" means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers, including activities for women and minorities.

(f) TRANSPORTATION EDUCATION DEVELOPMENT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a program to make grants to institutions of higher education that, in partnership with industry or State departments of transportation, will develop, test, and revise new curricula and education programs to train individuals at all levels of the transportation workforce.

(2) SELECTION OF GRANT RECIPIENTS.—In selecting applications for awards under this subsection, the Secretary shall consider—

(A) the degree to which the new curricula or education program meets the specific needs of a segment of the transportation industry, States, or regions;

(B) providing for practical experience and on-the-job training;

(C) proposals oriented toward practitioners in the field rather than the support and growth of the research community;

(D) the degree to which the new curricula or program will provide training in areas other than engineering, such as business administration, economics, information technology, environmental science, and law;

(E) programs or curricula in nontraditional departments that train professionals for work in the transportation field, such as materials, information technology, environmental science, urban planning, and industrial technology; and

(F) the commitment of industry or a State's department of transportation to the program.

(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $300,000 per year. After a recipient has received 3 years of Federal funding under this subsection, Federal funding may equal not more than 75 percent of a grantee's program costs.

(g) FREIGHT CAPACITY BUILDING PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a freight planning capacity building initiative to support enhancements in freight transportation planning in order to—

(A) better target investments in freight transportation systems to maintain efficiency and productivity; and

(B) strengthen the decisionmaking capacity of State transportation departments and local transportation agencies with respect to freight transportation planning and systems.

(2) AGREEMENTS.—The Secretary shall enter into agreements to support and carry out administrative and management activities relating to the governance of the freight planning capacity initiative.

(3) STAKEHOLDER INVOLVEMENT.—In carrying out this section, the Secretary shall consult with the Association of Metropolitan Planning Organizations, the American Association of State Highway and Transportation Officials, and other freight planning stakeholders, including the other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

(4) ELIGIBLE ACTIVITIES.—The freight planning capacity building initiative shall include research, training, and education in the following areas:

(A) The identification and dissemination of best practices in freight transportation.

(B) Providing opportunities for freight transportation staff to engage in peer exchange.

(C) Refinement of data and analysis tools used in conjunction with assessing freight transportation needs.

(D) Technical assistance to State transportation departments and local transportation agencies reorganizing to address freight transportation issues.

(E) Facilitating relationship building between governmental and private entities involved in freight transportation.

(F) Identifying ways to target the capacity of State transportation departments and local transportation agencies to address freight considerations in operations, security, asset management, and environmental stewardship in connection with long-range multimodal transportation planning and project implementation.

(5) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

(6) USE OF FUNDS.—Funds made available for the program established under this subsection may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use such funds independently or make grants or to and enter into contracts and cooperative agreements with a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.

(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

(1) IN GENERAL.—The Secretary shall make grants under this section to establish and maintain centers for surface transportation excellence.

(2) GOALS.—The goals of a center referred to in paragraph (1) shall be to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.

(3) ROLE OF THE CENTERS.—To achieve the goals set forth in paragraph (2), any centers established under paragraph (1) shall 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, that—

(i) is submitted to the Secretary at such time as the Secretary requires; and

(ii) 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 under this chapter.

* * * * * * *

§ 514. Goals and purposes

(a) GOALS.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to collisions, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles, and pedestrians (including individuals with disabilities); **[**and**]**

(5) enhancement of national defense mobility and improvement of the ability of the United States to respond to security-related or other manmade emergencies and natural disasters**[**.**]***; and*

(6) enhancement of the national freight system and support to national freight policy goals by conducting heavy duty vehicle demonstration activities and accelerating adoption of intelligent transportation system applications in freight operations.

(b) PURPOSES.—The Secretary shall implement activities under the intelligent transportation system program, at a minimum—

(1) to expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) to ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

(3) to improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) to promote the innovative use of private resources in support of intelligent transportation system development;

(5) to facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

(6) to support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

(7) to develop a workforce capable of developing, operating, and maintaining intelligent transportation systems;

(8) to provide continuing support for operations and maintenance of intelligent transportation systems; **[**and**]**

(9) to ensure a systems approach that includes cooperation among vehicles, infrastructure, and users**[**.**]***; and*

(10) to assist in the development of cybersecurity standards in cooperation with relevant modal administrations of the Department of Transportation and other Federal agencies to help prevent hacking, spoofing, and disruption of connected and automated transportation vehicles.

§ 515. General authorities and requirements

(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program—

(1) to research, develop, and operationally test intelligent transportation systems; and

(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in those tests and projects.

(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal agencies, as appropriate.

(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this chapter; and

(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) AGREEMENT.—

(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

(h) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this chapter.

(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

(A) a representative from a State highway department;

(B) a representative from a local highway department who is not from a metropolitan planning organization;

(C) a representative from a State, local, or regional transit agency;

(D) a representative from a metropolitan planning organization;

(E) a private sector user of intelligent transportation system technologies;

(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

(G) an academic researcher who is a civil engineer;

(H) an academic researcher who is a social scientist with expertise in transportation issues;

(I) a representative from a nonprofit group representing the intelligent transportation system industry;

(J) a representative from a public interest group concerned with safety;

(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

(L) members with expertise in planning, safety, telecommunications, utilities, and operations.

(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

(A) Provide input into the development of the intelligent transportation system aspects of the strategic plan under section 508.

(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

(4) REPORT.—Not later than [February 1 of each year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012] *May 1 of each year*, the Secretary shall [submit to Congress] *make available to the public on a Department of Transportation Web site* a report that includes—

(A) all recommendations made by the Advisory Committee during the preceding calendar year;

(B) an explanation of the manner in which the Secretary has implemented those recommendations; and

(C) for recommendations not implemented, the reasons for rejecting the recommendations.

(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(i) REPORTING.—

(1) GUIDELINES AND REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this chapter.

(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this chapter.

(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this chapter shall not be subject to chapter 35 of title 44, United States Code.

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§ 517. National architecture and standards

(a) IN GENERAL.—

(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783; 115 Stat. 1241), the Secretary shall develop and maintain a national ITS architecture and supporting ITS standards and protocols to promote the use of systems engineering methods in the widespread deployment and evaluation of intelligent transportation systems as a component of the surface transportation systems of the United States.

(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture and supporting ITS standards and protocols shall promote interoperability among, and efficiency of, intelligent transportation systems and technologies implemented throughout the United States.

(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall support the development and maintenance of standards and protocols using the services of such standards development organizations as the Secretary determines to be necessary and whose **[**memberships are comprised of, and represent,**]** *memberships include representatives of* the surface transportation and intelligent transportation systems industries.

(b) STANDARDS FOR NATIONAL POLICY IMPLEMENTATION.—If the Secretary finds that a standard is necessary for implementation of a nationwide policy relating to user fee collection or other capability requiring nationwide uniformity, the Secretary, after consultation with stakeholders, may establish and require the use of that standard.

(c) PROVISIONAL STANDARDS.—

(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives described in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the maximum extent practicable, the work product of appropriate standards development organizations.

(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

(d) CONFORMITY WITH NATIONAL ARCHITECTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall ensure that intelligent transportation system projects carried out using amounts made available from the Highway Trust Fund, including amounts made available to deploy intelligent transportation systems, conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under subsection (a) or (c).

(2) DISCRETION OF THE SECRETARY.—The Secretary, at the discretion of the Secretary, may offer an exemption from paragraph (1) for projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508.

§ 518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment

(a) IN GENERAL.—[Not later than 3 years after the date of enactment of this section, the Secretary shall submit to the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate and the Committees on Transportation and Infrastructure, Energy and Commerce, and Science, Space, and Technology of the House of Representatives] *Not later than July 6, 2016, the Secretary shall make available to the public on a Department of Transportation Web site a report* that—

(1) assesses the status of dedicated short-range communications technology and applications developed through research and development;

(2) analyzes the known and potential gaps in short-range communications technology and applications;

(3) defines a recommended implementation path for dedicated short-range communications technology and applications that—

(A) is based on the assessment described in paragraph (1); and

(B) takes into account the analysis described in paragraph (2);

(4) includes guidance on the relationship of the proposed deployment of dedicated short-range communications to the National ITS Architecture and ITS Standards; and

(5) ensures competition by not preferencing the use of any particular frequency for vehicle to infrastructure operations.

(b) REPORT REVIEW.—The Secretary shall enter into agreements with the National Research Council and an independent third party with subject matter expertise for the review of the report described in subsection (a).

§ 519. 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, equipment, and systems; and

(2) to the maximum extent practicable, shall not be used for the construction of physical surface transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

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CHAPTER 6—INFRASTRUCTURE FINANCE

* * * * * * *

§ 601. Generally applicable provisions

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

(1) CONTINGENT COMMITMENT.—The term "contingent commitment" means a commitment to obligate an amount from future available budget authority that is—

(A) contingent on those funds being made available in law at a future date; and

(B) not an obligation of the Federal Government.

(2) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(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.

(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.

(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) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(6) LETTER OF INTEREST.—The term "letter of interest" means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the TIFIA program that—

(A) describes the project and the location, purpose, and cost of the project;

(B) outlines the proposed financial plan, including the requested credit assistance and the proposed obligor;

(C) provides a status of environmental review; and

(D) provides information regarding satisfaction of other eligibility requirements of the TIFIA program.

(7) 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.

(8) LIMITED BUYDOWN.—The term "limited buydown" means, subject to the conditions described in section 603(b)(4)(C), a buydown of the interest rate by the obligor if the interest rate has increased between—

(A)(i) the date on which a project application acceptable to the Secretary is submitted; or

(ii) the date on which the Secretary entered into a master credit agreement; and

(B) the date on which the Secretary executes the Federal credit instrument.

(9) 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.

[(10) MASTER CREDIT AGREEMENT.—The term "master credit agreement" means an agreement to extend credit assistance for a program of projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency), or for a single project covered under section 602(b)(2) that would—

[(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to the availability of future funds being made available to carry out this chapter;

[(B) establish the maximum amounts and general terms and conditions of the secured loans or other Federal credit instruments;

[(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the repayment of the secured loans or secured Federal credit instruments;

[(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

[(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

[(ii) compliance with such other requirements as are specified in section 602(c); and

[(iii) the availability of funds to carry out this chapter; and

[(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 3 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.]

(10) MASTER CREDIT AGREEMENT.—The term "master credit agreement" means a conditional agreement to extend credit assistance for a program of related projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency prior to the Secretary entering into such master credit agreement) under section 602(b)(2)(A), or for a single project covered under section 602(b)(2)(B) that does not

provide for a current obligation of Federal funds, and that would—

(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to the availability of future funds being made available to carry out this chapter and subject to the satisfaction of all the conditions for the provision of credit assistance under this chapter, including section 603(b)(1);

(B) establish the maximum amounts and general terms and conditions of the secured loans or other Federal credit instruments;

(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the repayment of the secured loans or secured Federal credit instruments;

(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) compliance with such other requirements as are specified in this chapter, including sections 602(c) and 603(b)(1); and

(iii) the availability of funds to carry out this chapter; and

(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 3 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.

(11) OBLIGOR.—The term "obligor" means a party that—

(A) is primarily liable for payment of the principal of or interest on a Federal credit instrument; and

(B) may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(12) PROJECT.—The term "project" means—

(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

(D) a project that—

(i) is a project—

(I) for a public freight rail facility or a private facility providing public benefit for highway users by way of direct freight interchange between highway and rail carriers;

(II) for an intermodal freight transfer facility;

(III) for a means of access to a facility described in subclause (I) or (II);

(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements;

(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

(iv) is composed of related highway, surface transportation, transit, rail, or intermodal capital improvement projects eligible for assistance under this section in order to meet the eligible project cost threshold under section 602, by grouping related projects together for that purpose, subject to the condition that the credit assistance for the projects is secured by a common pledge.

(13) 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.

(14) 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 (15 U.S.C. 78c(a))).

[(15) RURAL INFRASTRUCTURE PROJECT.—The term "rural infrastructure project" means a surface transportation infrastructure project located in any area other than a city with a population of more than 250,000 inhabitants within the city limits.]

(15) RURAL INFRASTRUCTURE PROJECT.—The term "rural infrastructure project" means a surface transportation infrastructure project located outside of a Census-Bureau-defined urbanized area.

(16) 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.

(17) STATE.—The term "State" has the meaning given the term in section 101.

(18) SUBSIDY AMOUNT.—The term "subsidy amount" means the amount of budget authority sufficient to cover the estimated long- term cost to the Federal Government of a Federal credit instrument—

(A) calculated on a net present value basis; and

(B) excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(19) SUBSTANTIAL COMPLETION.—The term "substantial completion" means—

(A) the opening of a project to vehicular or passenger traffic; or

(B) a comparable event, as determined by the Secretary and specified in the credit agreement.

(20) TIFIA PROGRAM.—The term "TIFIA program" means the transportation infrastructure finance and innovation program of the Department.

(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.

§ 602. Determination of eligibility and project selection

(a) ELIGIBILITY.—

(1) IN GENERAL.—A project shall be eligible to receive credit assistance under this chapter if—

(A) the entity proposing to carry out the project submits a letter of interest prior to submission of a formal application for the project; and

(B) the project meets the criteria described in this subsection.

(2) CREDITWORTHINESS.—

(A) IN GENERAL.—To be eligible for assistance under this chapter, a project shall satisfy applicable creditworthiness standards, which, at a minimum, shall include—

(i) a rate covenant, if applicable;

(ii) adequate coverage requirements to ensure repayment;

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

(iv) a rating from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clause (iii), if the total amount of the senior debt and the Federal credit instrument is less than $75,000,000, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the credit instrument is for an amount less than $75,000,000, in which case 1 rating agency opinion shall be sufficient.

(3) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—A 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.

(4) 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 that is acceptable to the Secretary.

(5) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) *and (C)*, to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

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

(II) in the case of a rural infrastructure project, $25,000,000; and

(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.

(C) LOCAL INFRASTRUCTURE PROJECTS.—Eligible project costs shall be reasonably anticipated to equal or exceed $10,000,000 in the case of a project or program of projects—

(i) in which the applicant is a local government, public authority, or instrumentality of local government;

(ii) located on a facility owned by a local government; or

(iii) for which the Secretary determines that a local government is substantially involved in the development of the project.

(6) DEDICATED REVENUE SOURCES.—The applicable Federal credit instrument shall be repayable, in whole or in part, from—

(A) tolls;

(B) user fees;

(C) payments owing to the obligor under a public-private partnership; or

(D) other dedicated revenue sources that also secure or fund the project obligations.

(7) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraph (3).

(8) 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 to the Secretary an application under paragraph (4), under which a private party to a public-private partnership will be—

(A) the obligor; and

(B) identified later through completion of a procurement and selection of the private party.

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

(A) foster, if appropriate, partnerships that attract public and private investment for the project;

(B) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the lifecycle costs (including debt service costs) of the project; and

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

(10) PROJECT READINESS.—To be eligible for assistance under this chapter, the applicant shall demonstrate a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project under this chapter.

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish a rolling application process under which projects that are eligible to receive credit assistance under subsection (a) shall receive credit assistance on terms acceptable to the Secretary, if adequate funds are available to cover the subsidy costs associated with the Federal credit instrument.

[(2) ADEQUATE FUNDING NOT AVAILABLE.—If the Secretary fully obligates funding to eligible projects in a fiscal year, and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait until the earlier of—

[(A) the following fiscal year; and

[(B) the fiscal year during which additional funds are available to receive credit assistance.]

(2) MASTER CREDIT AGREEMENTS.—

(A) PROGRAM OF RELATED PROJECTS.—The Secretary may enter into a master credit agreement for a program of related projects secured by a common security pledge on terms acceptable to the Secretary.

(B) ADEQUATE FUNDING NOT AVAILABLE.—If the Secretary fully obligates funding to eligible projects in a fiscal year, and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait to execute a credit instrument until the fiscal year during which additional funds are available to receive credit assistance.

(3) PRELIMINARY RATING OPINION LETTER.—The Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency—

(A) indicating that the senior obligations of the project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating; and

(B) including a preliminary rating opinion on the Federal credit instrument.

(c) FEDERAL REQUIREMENTS.—

(1) IN GENERAL.—In addition to the requirements of this title for highway projects, the requirements of chapter 53 of title 49 for transit projects, and the requirements of 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 those funds:

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

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

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

(2) NEPA.—No funding shall be obligated for a project that has not received an environmental categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) APPLICATION PROCESSING PROCEDURES.—

(1) NOTICE OF COMPLETE APPLICATION.—Not later than 30 days after the date of receipt of an application under this section, the Secretary shall provide to the applicant a written notice to inform the applicant whether—

(A) the application is complete; or

(B) additional information or materials are needed to complete the application.

(2) APPROVAL OR DENIAL OF APPLICATION.—Not later than 60 days after the date of issuance of the written notice under paragraph (1), the Secretary shall provide to the applicant a written notice informing the applicant whether the Secretary has approved or disapproved the application.

(e) DEVELOPMENT PHASE ACTIVITIES.—Any credit instrument secured under this chapter may be used to finance up to 100 percent of the cost of development phase activities as described in section 601(a)(1)(A).

§ 603. Secured loans

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs of any project selected under section 602;

(B) to refinance interim construction financing of eligible project costs of any project selected under section 602;

(C) to refinance existing Federal credit instruments for rural infrastructure projects; or

(D) to refinance long-term project obligations or Federal credit instruments, if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

(i) is selected under section 602; or

(ii) otherwise meets the requirements of section 602.

[(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.]

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B)—

(A) if the maturity of such interim construction financing is later than 1 year after the substantial completion of the project; and

(B) later than 1 year after the date of substantial completion of the project.

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account each rating letter provided by an agency under section 602(b)(3)(B).

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate.

(2) MAXIMUM AMOUNT.—The amount of a secured loan under this section shall not exceed the lesser of 49 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.

(3) PAYMENT.—A secured loan under this section—

(A) shall—

(i) be payable, in whole or in part, from—

(I) tolls;

(II) user fees;

(III) payments owing to the obligor under a public-private partnership; or

(IV) other dedicated revenue sources that also secure the senior project obligations; and

(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

(4) INTEREST RATE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the interest rate on a secured loan under this section shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(B) RURAL INFRASTRUCTURE PROJECTS.—

(i) IN GENERAL.—The interest rate of a loan offered to a rural infrastructure project under this chapter shall be at ½ of the Treasury Rate in effect on the date of execution of the loan agreement.

(ii) APPLICATION.—The rate described in clause (i) shall only apply to any portion of a loan the subsidy cost of which is funded by amounts set aside for rural infrastructure projects under section 608(a)(3)(A).

(C) LIMITED BUYDOWNS.—The interest rate of a secured loan under this section may not be lowered by more than the lower of—

(i) 1½ percentage points (150 basis points); or

(ii) the amount of the increase in the interest rate.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be the lesser of—

(A) 35 years after the date of substantial completion of the project; and

(B) if the useful life of the capital asset being financed is of a lesser period, the useful life of the asset.

(6) NONSUBORDINATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(B) PREEXISTING INDENTURE.—

(i) IN GENERAL.—The Secretary shall waive the requirement under subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

(I) the secured loan is rated in the A category or higher;

(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

(III) the TIFIA program share of eligible project costs is 33 percent or less.

(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

(I) the maximum credit subsidy to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

(II) the obligor shall be responsible for paying the remainder of the subsidy cost, if any.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this chapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

(9) MAXIMUM FEDERAL INVOLVEMENT.—The total Federal assistance provided on a project receiving a loan under this chapter shall not exceed 80 percent of the total project cost.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on—

(A) the projected cash flow from project revenues and other repayment sources; and

(B) the useful life of the project.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) DEFERRED PAYMENTS.—

(A) IN GENERAL.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan.

(C) CRITERIA.—

(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

(ii) REPAYMENT STANDARDS.—The criteria established pursuant to clause (i) shall include standards for reasonable assurance of repayment.

(4) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—

(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan under this section if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a loan guarantee under paragraph (1) shall be consistent with the terms required under this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

* * * * * * *

§ 608. Funding

(a) FUNDING.—

(1) SPENDING AND BORROWING AUTHORITY.—Spending and borrowing authority for a fiscal year to enter into Federal credit instruments shall be promptly apportioned to the Secretary on a fiscal-year basis.

(2) REESTIMATES.—If the subsidy cost of a Federal credit instrument is reestimated, the cost increase or decrease of the reestimate shall be borne by, or benefit, the general fund of the Treasury, consistent with section 504(f) the Congressional Budget Act of 1974 (2 U.S.C. 661c(f)).

(3) RURAL SET-ASIDE.—

(A) IN GENERAL.—Of the total amount of funds made available to carry out this chapter for each fiscal year, not more than 10 percent shall be set aside for rural infrastructure projects.

(B) REOBLIGATION.—Any amounts set aside under subparagraph (A) that remain unobligated by June 1 of the fiscal year for which the amounts were set aside shall be available for obligation by the Secretary on projects other than rural infrastructure projects.

(4) REDISTRIBUTION OF AUTHORIZED FUNDING.—

(A) IN GENERAL.—[Beginning in fiscal year 2014, on April 1 of each fiscal year] *Beginning in fiscal year 2016, on August 1 of each fiscal year*, if the cumulative unobligated and uncommitted balance of funding available exceeds 75 percent of the amount made available to carry out this chapter for that fiscal year, the Secretary shall distribute to the States the amount of funds and associated obligation authority in excess of that amount.

(B) DISTRIBUTION.—The amounts and obligation authority distributed under this paragraph shall be distributed, in the same manner as obligation authority is distributed to the States for the fiscal year, based on the proportion that—

(i) the relative share of each State of obligation authority for the fiscal year; bears to

(ii) the total amount of obligation authority distributed to all States for the fiscal year.

(C) PURPOSE.—Funds distributed under subparagraph (B) shall be available for any purpose described in section 133(b).

(D) LIMITATIONS.—The Secretary may not carry out a redistribution under this paragraph—

(i) for any fiscal year in which such redistribution would adversely impact the receipt of credit assistance by a qualified project within such fiscal year; or

(ii) if the budget authority determined to be necessary to cover all requests for credit assistance pending before the Department of Transportation on August 1 would reduce the uncommitted balance of funds below the threshold established in subparagraph (A).

(5) AVAILABILITY.—Amounts made available to carry out this chapter shall remain available until expended.

[(6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out this chapter, the Secretary may use not more than 0.50 percent for each fiscal year for the administration of this chapter.]

(6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out this chapter, the Secretary may use not more than $5,000,000 for fiscal year 2016, $5,150,000 for fiscal year 2017, $5,304,500 for fiscal year 2018, $5,463,500 for fiscal year 2019, $5,627,500 for fiscal year 2020, and $5,760,500 for fiscal year 2021 for the administration of this chapter.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, execution of a term sheet by the Secretary of a Federal credit instrument that uses amounts made available under this chapter shall impose on the United States a contractual obligation to fund the Federal credit investment.

(2) AVAILABILITY.—Amounts made available to carry out this chapter for a fiscal year shall be available for obligation on October 1 of the fiscal year.

* * * * * * *

§ 610. State infrastructure bank program

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

(1) CAPITAL PROJECT.—The term "capital project" has the meaning such term has under section 5302 of title 49.

(2) OTHER FORMS OF CREDIT ASSISTANCE.—The term "other forms of credit assistance" includes any use of funds in an infrastructure bank—

(A) to provide credit enhancements;

(B) to serve as a capital reserve for bond or debt instrument financing;

(C) to subsidize interest rates;

(D) to insure or guarantee letters of credit and credit instruments against credit risk of loss;

(E) to finance purchase and lease agreements with respect to transit projects;

(F) to provide bond or debt financing instrument security; and

(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

(3) STATE.—The term "State" has the meaning such term has under section 401.

(4) CAPITALIZATION.—The term "capitalization" means the process used for depositing funds as initial capital into a State infrastructure bank to establish the infrastructure bank.

(5) COOPERATIVE AGREEMENT.—The term "cooperative agreement" means written consent between a State and the Secretary which sets forth the manner in which the infrastructure bank established by the State in accordance with this section will be administered.

(6) LOAN.—The term "loan" means any form of direct financial assistance from a State infrastructure bank that is re-

quired to be repaid over a period of time and that is provided to a project sponsor for all or part of the costs of the project.

(7) GUARANTEE.—The term "guarantee" means a contract entered into by a State infrastructure bank in which the bank agrees to take responsibility for all or a portion of a project sponsor's financial obligations for a project under specified conditions.

(8) INITIAL ASSISTANCE.—The term "initial assistance" means the first round of funds that are loaned or used for credit enhancement by a State infrastructure bank for projects eligible for assistance under this section.

(9) LEVERAGE.—The term "leverage" means a financial structure used to increase funds in a State infrastructure bank through the issuance of debt instruments.

(10) LEVERAGED.—The term "leveraged", as used with respect to a State infrastructure bank, means that the bank has total potential liabilities that exceed the capital of the bank.

(b) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

(c) INTERSTATE COMPACTS.—

(1) IN GENERAL.—Congress grants consent to two or more of the States, entering into a cooperative agreement under subsection (a) with the Secretary for the establishment by such States of a multistate infrastructure bank in accordance with this section, to enter into an interstate compact establishing such bank in accordance with this section.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(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 of the funds apportioned to the State for each of fiscal years 2005 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; and]

(A) 10 percent of the funds apportioned to the State for each of fiscal years 2016 through 2021 under each of sections 104(b)(1) and 104(b)(2); and

(B) 10 percent of the funds allocated to the State for each of such fiscal years.

(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 of the funds made available to the State or other recipient in each of [fiscal years

2005 through 2009] *fiscal years 2016 through 2021* 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 2016 through 2021* for capital projects under such subtitle.

(4) CAPITAL GRANTS.—

(A) HIGHWAY ACCOUNT.—Federal funds deposited into a highway account of a State infrastructure bank under paragraph (1) shall constitute for purposes of this section a capitalization grant for the highway account of the bank.

(B) TRANSIT ACCOUNT.—Federal funds deposited into a transit account of a State infrastructure bank under paragraph (2) shall constitute for purposes of this section a capitalization grant for the transit account of the bank.

(C) RAIL ACCOUNT.—Federal funds deposited into a rail account of a State infrastructure bank under paragraph 3 shall constitute for purposes of this section a capitalization grant for the rail account of the bank.

(5) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds in a State infrastructure bank that are attributed to urbanized areas of a State with urbanized populations of over 200,000 under [section 133(d)(3)] *section 133(d)(1)(A)(i)* may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

(6) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State's infrastructure bank in accordance with a cooperative agreement entered into under subsection (b), the Secretary may prohibit the State from contributing additional Federal funds to the bank.

(e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other forms of credit assistance to a public or private entity in an amount equal to all or a part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other form of credit assistance provided for the project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds deposited into an infrastructure bank under this section may not be made in the form of a grant.

(f) ELIGIBLE PROJECTS.—Subject to subsection (e), funds in an infrastructure bank established under this section may be used only to provide assistance for projects eligible for assistance under this title and capital projects defined in section 5302 of title 49, and any other projects relating to surface transportation that the Secretary determines to be appropriate.

(g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, the State establishing the bank shall—

(1) deposit in cash, at a minimum, into each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and deposited into such account; except that, if the deposit is into the highway account of the bank and the State has a non-Federal share under section 120(b) that is less than 25 percent, the percentage to be deposited from non-Federal sources shall be the lower percentage of such grant;

(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt, or has a sufficient level of bond or debt financing instrument insurance, to maintain the viability of the bank;

(3) ensure that investment income derived from funds deposited to an account of the bank are—

(A) credited to the account;

(B) available for use in providing loans and other forms of credit assistance to projects eligible for assistance from the account; and

(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(4) ensure that any loan from the bank will 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;

(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan; and

(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.

(h) APPLICABILITY OF FEDERAL LAW.—

(1) IN GENERAL.—The requirements of this title and title 49 that would otherwise apply to funds made available under this title or such title and projects assisted with those funds shall apply to—

(A) funds made available under this title or such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (g); and

(B) projects assisted by the bank through the use of the funds,

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.

(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

(i) UNITED STATES NOT OBLIGATED.—The deposit of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31 shall not apply to funds deposited into an infrastructure bank under this section.

(k) PROGRAM ADMINISTRATION.—For each of [fiscal years 2005 through 2009] *fiscal years 2016 through 2021*, 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.

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SAFETEA-LU

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) 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:

* * * * * * *

TITLE I—FEDERAL-AID HIGHWAYS

* * * * * * *

Subtitle C—Mobility and Efficiency

[Sec. 1301. Projects of national and regional significance.]

* * * * * * *

Subtitle D—Highway Safety

* * * * * * *

[Sec. 1409. Work zone safety grants.]
Sec. 1409. Work zone and guard rail safety training.

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TITLE IV—MOTOR CARRIER SAFETY

* * * * * * *

Subtitle A—Commercial Motor Vehicle Safety

* * * * * * *

[Sec. 4126. Commercial vehicle information systems and networks deployment.
[Sec. 4127. Outreach and education.
[Sec. 4128. Safety data improvement program.]

* * * * * * *

[Sec. 4134. Grant program for commercial motor vehicle operators.]

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TITLE I—FEDERAL-AID HIGHWAYS

* * * * * * *

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 eligible applicants 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) ELIGIBLE APPLICANT.—The term "eligible applicant" means—

[(A) a State department of transportation or a group of State departments of transportation;

[(B) a tribal government or consortium of tribal governments;

[(C) a transit agency; or

[(D) a multi-State or multi-jurisdictional group of the agencies described in subparagraphs (A) through (C).

[(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) 50 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 eligible applicant 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) improves roadways vital to national energy security; 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.

[(E) CONGRESSIONAL APPROVAL.—The Secretary may not issue a letter of intent, enter into a full funding grant agreement under paragraph (2), or make any other obligation or commitment to fund a project under this section if a joint resolution of disapproval is enacted disapproving funding for the project before the last day of the 60-day period described in subparagraph (B).

[(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.

[(3) PROJECT SELECTION JUSTIFICATIONS.—

[(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary selects a project for funding under this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the reasons for selecting the project, based on the criteria described in subsection (f).

[(B) INCLUSIONS.—The report submitted under subparagraph (A) shall specify each criteria described in subsection (f) that the project meets.

[(C) AVAILABILITY.—The Secretary shall make available on the website of the Department the report submitted under subparagraph (A).

[(l) REPORT.—

[(1) IN GENERAL.—Not later than 2 years after the date of enactment of the MAP–21, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate regarding projects of national and regional significance.

[(2) PURPOSE.—The purpose of the report issued under this subsection shall be to identify projects of national and regional significance that—

[(A) will significantly improve the performance of the Federal-aid highway system, nationally or regionally;

[(B) is able to—

[(i) generate national economic benefits that reasonably exceed the costs of the projects, including increased access to jobs, labor, and other critical economic inputs;

[(ii) reduce long-term congestion, including impacts in the State, region, and the United States, and increase speed, reliability, and accessibility of the movement of people or freight; and

[(iii) improve transportation safety, including reducing transportation accidents, and serious injuries and fatalities; and

[(C) can be supported by an acceptable degree of non-Federal financial commitments.

[(3) CONTENTS.—The report issued under this subsection shall include—

[(A) a comprehensive list of each project of national and regional significance that—

[(i) has been complied through a survey of State departments of transportation; and

[(ii) has been classified by the Secretary as a project of regional or national significance in accordance with this section;

[(B) an analysis of the information collected under paragraph (1), including a discussion of the factors supporting each classification of a project as a project of regional or national significance; and

[(C) recommendations on financing for eligible project costs.

[(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 for fiscal year 2013, to remain available until expended.]

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Subtitle D—Highway Safety

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SEC. 1409. [WORK ZONE SAFETY GRANTS.] *WORK ZONE AND GUARD RAIL SAFETY TRAINING.*

(a) IN GENERAL.—The Secretary shall establish and implement a work zone safety grant program under which the Secretary may make grants to nonprofit organizations and not-for-profit organizations to provide training to prevent or reduce highway work zone injuries and fatalities.

(b) ELIGIBLE ACTIVITIES.—Grants may be made under the program for the following purposes:

(1) Training for construction craft workers on the prevention of injuries and fatalities in highway and road construction.

(2) Development of guidelines for the prevention of highway work zone injuries and fatalities.

(3) Training for State and local government transportation agencies and other groups implementing guidelines for the prevention of highway work zone injuries and fatalities.

(4) Development, updating, and delivery of training courses on guard rail installation, maintenance, and inspection.

(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.

(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.

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Subtitle F—Finance

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SEC. 1604. TOLLING.

(a) [Omitted-amends other laws]

(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 facility 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 pro-

gram, 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 I—Miscellaneous

* * * * * * *

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**]** *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.]

(b) USE OF GRANT FUNDS.—A grant received by a State under subsection (a) shall be used by the State for the costs of—

(1) collecting and maintaining data on traffic stops; and

(2) evaluating the results of the data.

[(d)] *(c)* 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] *On or after October 1, 2015, a State* may not receive a grant under subsection (a)(2) in more than 2 fiscal years.

[(e) AUTHORIZATION OF APPROPRIATIONS.—] *(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 $7,500,000 for each of fiscal years 2005 through 2009.]

(1) IN GENERAL.—From funds made available under section 403 of title 23, United States Code, the Secretary shall set aside $7,500,000 for each of the fiscal years 2016 through 2021 to carry out this section.

(2) CONTRACT AUTHORITY.—Funds [authorized by] *made available 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 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.] *percent.*

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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 $30,000,000 for each of fiscal years 2013 through 2015 and $2,377,049 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(2) BORDER ENFORCEMENT GRANTS.—For border enforcement grants under section 31107 of such title $32,000,000 for each of fiscal years 2013 through 2015 and $2,535,519 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(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 2013 through 2015 and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(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 2013 through 2015 and $1,980,874 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(5) SAFETY DATA IMPROVEMENT GRANTS.—For safety data improvement grants under section 4128 of this Act, $3,000,000 for each of fiscal years 2013 through 2015 and $237,705 for the period beginning on October 1, 2015, and ending on October 29, 2015.]

(c) AUTHORIZATION OF APPROPRIATIONS.—The following sums are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account):

(1) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—For carrying out the commercial driver's license program improvement grants program under section 31313 of title 49, United States Code, $30,480,000 for fiscal year 2016.

(2) BORDER ENFORCEMENT GRANTS.—For border enforcement grants under section 31107 of that title $32,512,000 for fiscal year 2016.

(3) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT GRANT PROGRAM.—For the performance and registration information systems management grant program under section 31109 of that title $5,080,000 for fiscal year 2016.

(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 $25,400,000 for fiscal year 2016.

(5) SAFETY DATA IMPROVEMENT GRANTS.—For safety data improvement grants under section 4128 of this Act $3,048,000 for fiscal year 2016.

(d) PERIOD OF AVAILABILITY.—The amounts made available under subsection (c) of this section shall remain available until expended.

(e) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (c) 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.

(f) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (c) 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. 4116. MEDICAL PROGRAM.

(a) [Omitted-Amended other laws]

(b) [Omitted-Amended other laws]

(c) [Omitted-Amended other laws]

(d) FUNDING.—Amounts made available pursuant to [section 31104(i)] *section 31110* of title 49, United States Code, shall be used by the Secretary to carry out section 31149 of title 49, United States Code.

(e) [Omitted-Amended other laws]

(f) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the 365th day following the date of enactment of this Act.

* * * * * * *

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.

(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

(c) CORE DEPLOYMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

(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. *Funds deobligated by the Secretary from previous year grants shall not be counted toward the $2,500,000 maximum aggregate amount for core deployment.*

(3) 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. *Funds may also be used for planning activities, including the development or updating of program or top level design plans.*

(d) EXPANDED DEPLOYMENT GRANTS.—

(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made grants under subsection (c), the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks in such State is eligible for an expanded deployment grant under this subsection.

(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) 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. *Funds may also be used for planning activities, including the development or updating of program or top level design plans.*

(e) ELIGIBILITY.—To be eligible for a grant under this section, a State—

(1) shall have a commercial vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level that need to be refined, revised, upgraded, or built to accomplish deployment of core capabilities;

(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) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

(B) promote interoperability and efficiency 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.

(f) FEDERAL SHARE.—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.

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

(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term "commercial vehicle information systems and networks" means the information systems and communications networks that provide the capability to—

(A) improve the safety of commercial motor vehicle operations;

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

(D) enhance the safe passage of commercial motor vehicles across the United States and across international borders; and

(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

(2) COMMERCIAL MOTOR VEHICLE OPERATIONS.—The term "commercial motor vehicle operations"—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial motor vehicle movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and bor-

der crossing inspection and regulatory compliance operations.

(3) CORE DEPLOYMENT.—The term "core deployment" means the deployment of systems in a State necessary to provide the State with the following capabilities:

(A) Safety information exchange to—

(i) electronically collect and transmit commercial motor vehicle and driver inspection data at a majority of inspection sites in the State;

(ii) connect to the safety and fitness electronic records system for access to interstate carrier and commercial motor vehicle data, summaries of past safety performance, and commercial motor vehicle credentials information; and

(iii) exchange carrier data and commercial motor vehicle safety and credentials information within the State and connect to such system for access to interstate carrier and commercial motor vehicle data.

(B) Interstate credentials administration to—

(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the international registration plan and international fuel tax agreement credentials and extend this processing to other credentials, including intrastate registration, vehicle titling, oversize vehicle permits, overweight vehicle permits, carrier registration, and hazardous materials permits;

(ii) connect to such plan and agreement clearinghouses; and

(iii) have at least 10 percent of the credentialing transaction volume in the State handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.

(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection site in the State and to replicate this screening at other sites in the State.

(4) EXPANDED DEPLOYMENT.—The term "expanded deployment" means the deployment of systems in a State that exceed the requirements of a core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial motor vehicle operations, and enhance transportation security.

[Pursuant to subsections (e)(5) and (f) of section 5101 of H.R. 3763 (as reported), section 4126 of SAFETEA–LU, as amended by other provisions of this bill and in effect on October 1, 2016, is repealed including the item relating to that section in the table of contents contained in section 1(b) of that Act.]

[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.

[(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

[(c) CORE DEPLOYMENT GRANTS.—

[(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

[(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. Funds deobligated by the Secretary from previous year grants shall not be counted toward the $2,500,000 maximum aggregate amount for core deployment.

[(3) 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. Funds may also be used for planning activities, including the development or updating of program or top level design plans.

[(d) EXPANDED DEPLOYMENT GRANTS.—

[(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made grants under subsection (c), the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

[(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks in such State is eligible for an expanded deployment grant under this subsection.

[(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) 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. Funds may also be used for planning activities, including the development or updating of program or top level design plans.

[(e) ELIGIBILITY.—To be eligible for a grant under this section, a State—

[(1) shall have a commercial vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level

that need to be refined, revised, upgraded, or built to accomplish deployment of core capabilities;

[(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) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

[(B) promote interoperability and efficiency 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.

[(f) FEDERAL SHARE.—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.

[(g) DEFINITIONS.—In this section, the following definitions apply:

[(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term "commercial vehicle information systems and networks" means the information systems and communications networks that provide the capability to—

[(A) improve the safety of commercial motor vehicle operations;

[(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

[(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

[(D) enhance the safe passage of commercial motor vehicles across the United States and across international borders; and

[(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

[(2) COMMERCIAL MOTOR VEHICLE OPERATIONS.—The term "commercial motor vehicle operations"—

[(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial motor vehicle movement of goods, including hazardous materials, and passengers; and

[(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

[(3) CORE DEPLOYMENT.—The term "core deployment" means the deployment of systems in a State necessary to provide the State with the following capabilities:

[(A) Safety information exchange to—

[(i) electronically collect and transmit commercial motor vehicle and driver inspection data at a majority of inspection sites in the State;

[(ii) connect to the safety and fitness electronic records system for access to interstate carrier and commercial motor vehicle data, summaries of past safety performance, and commercial motor vehicle credentials information; and

[(iii) exchange carrier data and commercial motor vehicle safety and credentials information within the State and connect to such system for access to interstate carrier and commercial motor vehicle data.

[(B) Interstate credentials administration to—

[(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the international registration plan and international fuel tax agreement credentials and extend this processing to other credentials, including intrastate registration, vehicle titling, oversize vehicle permits, overweight vehicle permits, carrier registration, and hazardous materials permits;

[(ii) connect to such plan and agreement clearinghouses; and

[(iii) have at least 10 percent of the credentialing transaction volume in the State handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.

[(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection site in the State and to replicate this screening at other sites in the State.

[(4) EXPANDED DEPLOYMENT.—The term "expanded deployment" means the deployment of systems in a State that exceed the requirements of a core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial motor vehicle operations, and enhance transportation security.

[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 $4,000,000 to the Federal Motor Carrier Safety Administration for each of fiscal years 2013 through 2015 and $316,940 to the Federal Motor Carrier Safety Administration for the period beginning on October 1, 2015, and ending on October 29, 2015, 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.]

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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 2015 and $79,235 for the period beginning on October 1, 2015, and ending on October 29, 2015, to carry out this section.**]**

(c) FUNDING.—From amounts made available under section 31110 of title 49, United States Code, the Secretary shall make available, $1,000,000 for fiscal year 2016 to carry out this section.

[Pursuant to subsections (e)(7) and (f) of section 5101 of H.R. 3763 (as reported), section 4134 of SAFETEA–LU, as amended by other provisions of this bill and in effect on October 1, 2016, is repealed including the item relating to that section in the table of contents contained in section 1(b) of that Act.**]**

[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 2015 and $79,235 for the period beginning on October 1, 2015, and ending on October 29, 2015, to carry out this section.

[(c) FUNDING.—From amounts made available under section 31110 of title 49, United States Code, the Secretary shall make available, $1,000,000 for fiscal year 2016 to carry out this section.**]**

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MAP-21

SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

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

* * * * * * *

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

Sec. 1. Short title; organization of Act into divisions; table of contents.

* * * * * * *

DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

* * * * * * *

[Sec. 1117. State freight advisory committees.
[Sec. 1118. State freight plans.]

* * * * * * *

Subtitle C—Acceleration of Project Delivery

* * * * * * *

[Sec. 1319. Accelerated decisionmaking in environmental reviews.]

* * * * * * *

DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

* * * * * * *

SEC. 1109. WORKFORCE DEVELOPMENT.

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

(1) in the second sentence, by striking "Whenever apportionments are made under section 104(b)(3) of this title," and inserting "From administrative funds made available under section 104(a),"; and

(2) in the [fourth] *fifth* sentence, by striking "and the bridge program under section 144".

(b) DISADVANTAGED BUSINESS ENTERPRISE.—Section 140(c) of title 23, United States Code, is amended in the second sentence by striking "Whenever apportionments are made under section 104(b)(3)," and inserting "From administrative funds made available under section 104(a),".

* * * * * * *

[SEC. 1117. 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 transportation department of the State, and local governments.

[(b) ROLE OF COMMITTEE.—A freight advisory committee of a State 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 freight plan of the State described in section 1118.

[SEC. 1118. STATE FREIGHT PLANS.

[(a) IN GENERAL.—The Secretary shall encourage each State to develop a freight plan that provides a comprehensive plan for the immediate and long-range planning activities and investments of the State 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 freight-related transportation investment decisions of the State;

[(3) a description of how the plan will improve the ability of the State to meet the national freight goals established under section 167 of title 23, 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;

[(5) in the case of routes on which travel by heavy vehicles (including mining, agricultural, energy cargo or equipment, and timber vehicles) is projected to substantially deteriorate the condition of roadways, a description of improvements that may be required to reduce or impede the deterioration; and

[(6) an inventory of facilities with freight mobility issues, such as truck bottlenecks, within the State, and a description of the strategies the State is employing to address those freight mobility issues.

[(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 135 of title 23, United States Code.]

* * * * * * *

SEC. 1123. TRIBAL HIGH PRIORITY PROJECTS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) EMERGENCY OR DISASTER.—The term "emergency or disaster" means damage to a tribal transportation facility that—

(A) renders the tribal transportation facility impassable or unusable;

(B) is caused by—

(i) a natural disaster over a widespread area; or

(ii) a catastrophic failure from an external cause; and

(C) would be eligible under the emergency relief program under section 125 of title 23, United States Code, but does not meet the funding thresholds required by that section.

(2) LIST.—The term "list" means the funding priority list developed under subsection (c)(5).

(3) PROGRAM.—The term "program" means the Tribal High Priority Projects program established under subsection (b)(1).

(4) PROJECT.—The term "project" means a project provided funds under the program.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (h) to carry out a Tribal High Priority Projects program under which funds shall be provided to eligible applicants in accordance with this section.

(2) ELIGIBLE APPLICANTS.—Applicants eligible for program funds under this section include—

(A) an Indian tribe whose annual allocation of funding under section 202 of title 23, United States Code, is insufficient to complete the highest priority project of the Indian tribe;

(B) a governmental subdivision of an Indian tribe—

(i) that is authorized to administer the funding of the Indian tribe under section 202 of title 23, United States Code; and

(ii) for which the annual allocation under that section is insufficient to complete the highest priority project of the Indian tribe; or

(C) any Indian tribe that has an emergency or disaster with respect to a transportation facility included on the national inventory of tribal transportation facilities under section 202(b)(1) of title 23, United States Code.

(c) PROJECT APPLICATIONS; FUNDING.—

(1) IN GENERAL.—To apply for funds under this section, an eligible applicant shall submit to the Department of the Interior or the Department an application that includes—

(A) project scope of work, including deliverables, budget, and timeline;

(B) the amount of funds requested;

(C) project information addressing—

(i) the ranking criteria identified in paragraph (3); or

(ii) the nature of the emergency or disaster;

(D) documentation that the project meets the definition of a tribal transportation facility and is included in the national inventory of tribal transportation facilities under section 202(b)(1) of title 23, United States Code;

(E) documentation of official tribal action requesting the project;

(F) documentation from the Indian tribe providing authority for the Secretary of the Interior to place the project on a transportation improvement program if the project is selected and approved; and

(G) any other information the Secretary of the Interior or Secretary considers appropriate to make a determination.

(2) LIMITATION ON APPLICATIONS.—An applicant for funds under the program may only have 1 application for assistance under this section pending at any 1 time, including any emergency or disaster application.

(3) APPLICATION RANKING.—

(A) IN GENERAL.—The Secretary of the Interior and the Secretary shall determine the eligibility of, and fund, program applications, subject to the availability of funds.

(B) RANKING CRITERIA.—The project ranking criteria for applications under this section shall include—

(i) the existence of safety hazards with documented fatality and injury accidents;

(ii) the number of years since the Indian tribe last completed a construction project funded by section 202 of title 23, United States Code;

(iii) the readiness of the Indian tribe to proceed to construction or bridge design need;

(iv) the percentage of project costs matched by funds that are not provided under section 202 of title 23, United States Code, with projects with a greater percentage of other sources of matching funds ranked ahead of lesser matches);

(v) the amount of funds requested, with requests for lesser amounts given greater priority;

(vi) the challenges caused by geographic isolation; and

(vii) all weather access for employment, commerce, health, safety, educational resources, or housing.

(4) PROJECT SCORING MATRIX.—The project scoring matrix established in the appendix to part 170 of title 25, Code of Regulations (as in effect on the date of enactment of this Act) shall be used to rank all applications accepted under this section.

(5) FUNDING PRIORITY LIST.—

(A) IN GENERAL.—The Secretary of the Interior and the Secretary shall jointly produce a funding priority list that ranks the projects approved for funding under the program.

(B) LIMITATION.—The number of projects on the list shall be limited by the amount of funding made available.

(6) TIMELINE.—The Secretary of the Interior and the Secretary shall—

(A) require applications for funding no sooner than 60 days after funding is made available pursuant to subsection (a);

(B) notify all applicants and Regions in writing of acceptance of applications;

(C) rank all accepted applications in accordance with the project scoring matrix, develop the funding priority list, and return unaccepted applications to the applicant with an explanation of deficiencies;

(D) notify all accepted applicants of the projects included on the funding priority list no later than 180 days after the application deadline has passed pursuant to subparagraph (A); and

(E) distribute funds to successful applicants.

(d) EMERGENCY OR DISASTER PROJECT APPLICATIONS.—

(1) IN GENERAL.—Notwithstanding subsection (c)(6), an eligible applicant may submit an emergency or disaster project application at any time during the fiscal year.

(2) CONSIDERATION AS PRIORITY.—The Secretary shall—

(A) consider project applications submitted under paragraph (1) to be a priority; and

(B) fund the project applications in accordance with paragraph (3).

(3) FUNDING.—

(A) IN GENERAL.—If an eligible applicant submits an application for a project under this subsection before the issuance of the list under subsection (c)(5) and the project is determined to be eligible for program funds, the Secretary of the Interior shall provide funding for the project before providing funding for other approved projects on the list.

(B) SUBMISSION AFTER ISSUANCE OF LIST.—If an eligible applicant submits an application under this subsection after the issuance of the list under subsection (c)(5) and the distribution of program funds in accordance with the list, the Secretary of the Interior shall provide funding for the project on the date on which unobligated funds provided to projects on the list are returned to the Department of the Interior.

(C) EFFECT ON OTHER PROJECTS.—If the Secretary of the Interior uses funding previously designated for a project on the list to fund an emergency or disaster project under this subsection, the project on the list that did not receive funding as a result of the redesignation of funds shall move to the top of the list the following year.

(4) EMERGENCY OR DISASTER PROJECT COST.—The cost of a project submitted as an emergency or disaster under this subsection shall be at least 10 percent of the distribution of funds of the Indian tribe under section 202(b) of title 23, United States Code.

(e) LIMITATION ON USE OF FUNDS.—Program funds shall not be used for—

(1) transportation planning;

(2) research;

(3) routine maintenance activities;

(4) structures and erosion protection unrelated to transportation and roadways;

(5) general reservation planning not involving transportation;

(6) landscaping and irrigation systems not involving transportation programs and projects;

(7) work performed on projects that are not included on a transportation improvement program approved by the Federal Highway Administration, unless otherwise authorized by the Secretary of the Interior and the Secretary;

(8) the purchase of equipment unless otherwise authorized by Federal law; or

(9) the condemnation of land for recreational trails.

(f) LIMITATION ON PROJECT AMOUNTS.—Project funding shall be limited to a maximum of $1,000,000 per application, except that funding for disaster or emergency projects shall also be limited to the estimated cost of repairing damage to the tribal transportation facility.

(g) COST ESTIMATE CERTIFICATION.—All cost estimates prepared for a project shall be required to be submitted by the applicant to the Secretary of the Interior and the Secretary for certification and approval.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $30,000,000 out of the general fund of the Treasury to carry out the program for each of [fiscal years 2013 through 2015 and $2,377,049 out of the general fund of the Treasury to carry out the program for the period beginning on October 1, 2015, and ending on October 29, 2015.] *fiscal years 2016 through 2021.*

(2) ADMINISTRATION.—The funds made available under paragraph (1) shall be administered in the same manner as funds made available for the tribal transportation program under section 202 of title 23, United States Code, except that—

(A) the funds made available for the program shall remain available until September 30 of the third fiscal year after the year appropriated; and

(B) the Federal share of the cost of a project shall be 100 percent.

Subtitle B—Performance Management

* * * * * * *

SEC. 1203. NATIONAL GOALS AND PERFORMANCE MANAGEMENT MEASURES.

(a) IN GENERAL.—[Section 150 of title 23, United States Code, is amended to read as follows] *Title 23, United States Code, is amended by inserting after section 149 the following*:

"SEC. 150. NATIONAL GOALS AND PERFORMANCE MANAGEMENT MEASURES.

"(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

"(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

"(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

"(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

"(3) CONGESTION REDUCTION.—To achieve a significant reduction in congestion on the National Highway System.

"(4) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

"(5) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

"(6) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

"(7) REDUCED PROJECT DELIVERY DELAYS.—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.

"(c) ESTABLISHMENT OF PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of the MAP-21, the Secretary, in consultation with State departments of transportation, metropolitan planning organizations, and other stakeholders, shall promulgate a rulemaking that establishes performance measures and standards.

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

"(A) provide States, metropolitan planning organizations, and other stakeholders not less than 90 days to comment on any regulation proposed by the Secretary under that paragraph;

"(B) take into consideration any comments relating to a proposed regulation received during that comment period; and

"(C) limit performance measures only to those described in this subsection.

"(3) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—

"(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out section 119, the Secretary shall establish—

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

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

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

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

"(III) the condition of bridges on the National Highway System;

"(IV) the performance of the Interstate System; and

"(V) the performance of the National Highway System (excluding the Interstate System);

"(iii) minimum levels for the condition of pavement on the Interstate System, only for the purposes of carrying out section 119(f)(1); and

"(iv) the data elements that are necessary to collect and maintain standardized data to carry out a performance-based approach.

"(B) REGIONS.—In establishing minimum condition levels under subparagraph (A)(iii), if the Secretary determines that various geographic regions of the United States experience disparate factors contributing to the condition

of pavement on the Interstate System in those regions, the Secretary may establish different minimum levels for each region;

"(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the purpose of carrying out section 148, the Secretary shall establish measures for States to use to assess—

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

"(B) the number of serious injuries and fatalities.

"(5) CONGESTION MITIGATION AND AIR QUALITY PROGRAM.—For the purpose of carrying out section 149, the Secretary shall establish measures for States to use to assess—

"(A) traffic congestion; and

"(B) on-road mobile source emissions.

"(6) NATIONAL FREIGHT MOVEMENT.—The Secretary shall establish measures for States to use to assess freight movement on the Interstate System.

"(d) ESTABLISHMENT OF PERFORMANCE TARGETS.—

"(1) IN GENERAL.—Not later than 1 year after the Secretary has promulgated the final rulemaking under subsection (c), each State shall set performance targets that reflect the measures identified in paragraphs (3), (4), (5), and (6) of subsection (c).

"(2) DIFFERENT APPROACHES FOR URBAN AND RURAL AREAS.—In the development and implementation of any performance target, a State may, as appropriate, provide for different performance targets for urbanized and rural areas.

"(e) REPORTING ON PERFORMANCE TARGETS.—Not later than 4 years after the date of enactment of the MAP-21 and biennially thereafter, a State shall submit to the Secretary a report that describes—

"(1) the condition and performance of the National Highway System in the State;

"(2) the effectiveness of the investment strategy document in the State asset management plan for the National Highway System;

"(3) progress in achieving performance targets identified under subsection (d); and

"(4) the ways in which the State is addressing congestion at freight bottlenecks, including those identified in the National Freight Strategic Plan, within the State.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended **[**by striking the item relating to section 150 and inserting**]** *by inserting after the item relating to section 149* the following:

"150. National goals and performance management measures.".

Subtitle C—Acceleration of Project Delivery

* * * * * * *

SEC. 1313. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.

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

[(1) in the section heading by striking "**PILOT**"; and**]**

*(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) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) in clause (i) by striking "but"; and

(B) by striking clause (ii) and inserting the following:

"(ii) at the request of the State, the Secretary may also assign to the State, and the State may assume, the responsibilities of the Secretary with respect to 1 or more railroad, public transportation, or multimodal projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(iii) in a State that has assumed the responsibilities of the Secretary under clause (ii), a recipient of assistance under chapter 53 of title 49 may request that the Secretary maintain the responsibilities of the Secretary with respect to 1 or more public transportation projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 13 4321 et seq.); but

"(iv) the Secretary may not assign—

"(I) any responsibility imposed on the Secretary by section 134 or 135 or section 5303 or 5304 of title 49; or

"(II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506).."; and

(2) 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.

"(G) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys' fees directly attributable to eligible activities associated with the project.".

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

(1) by striking paragraph (1) and inserting the following:

"(1) PARTICIPATING STATES.—All States are eligible to participate in the program."; and

(2) in paragraph (2) by striking "date of enactment of this section, the Secretary shall promulgate" and inserting "date on which amendments to this section by the MAP-21 take effect, the Secretary shall amend, as appropriate,".

(d) WRITTEN AGREEMENT.—Section 327(c) of title 23, United States Code, 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) require the State to provide to the Secretary any information the Secretary considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;

"(5) have a term of not more than 5 years; and

"(6) be renewable.".

(e) CONFORMING AMENDMENT.—Section 327(e) of title 23, United States Code, is amended by striking "subsection (i)" and inserting "subsection (j)".

(f) AUDITS.—Section 327(g)(1)(B) of title 23, United States Code, is amended by striking "subsequent year" and inserting "of the third and fourth years".

(g) MONITORING.—Section 327 of title 23, United States Code, is 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) of title 23, United States Code (as so redesignated), is amended to read as follows:

"(j) TERMINATION.—

"(1) TERMINATION BY THE 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 the Secretary.

"(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.".

(i) CLERICAL AMENDMENT.—The item relating to section 327 in the analysis of title 23, United States Code, is amended to read as follows:

"327. Surface transportation project delivery program.".

SEC. 1314. APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.

(a) IN GENERAL.—[Omitted—amends other law]

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

"304. Application of categorical exclusions for multimodal projects. ".

* * * * * * *

SEC. 1317. CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE.

Not later than 180 days after the date of enactment of this Act, the Secretary shall—*

(1) designate as an action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117(c) of title 23, Code of Federal Regulations, any project—

(A) that receives less than $5,000,000 *(as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor)* of Federal funds; or

(B) with a total estimated cost of not more than $30,000,000 *(as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor)* and Federal funds comprising less than 15 percent of the total estimated project cost; and

(2) not later than 150 days after the date of enactment of this Act, promulgate regulations to carry out paragraph (1).

* * * * * * *

[SEC. 1319. ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.

[(a) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, subject to the condition that the errata sheets—

[(1) cite the sources, authorities, or reasons that support the position of the agency; and

[(2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

[(b) INCORPORATION.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

[(1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

[(2) there are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action.]

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Subtitle E—Miscellaneous

* * * * * * *

SEC. 1503. PROJECT APPROVAL AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by inserting "recipient" before "formalizing";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the heading, by striking "Non-interstate";

(ii) by striking "but not on the Interstate System"; and inserting ", including projects on the Interstate System"; and

(iii) by striking "of projects" and all that follows through the period at the end and inserting "with respect to the projects unless the Secretary determines that the assumption is not appropriate."; and

(B) by striking paragraph (4) and inserting the following:

"(4) LIMITATION ON INTERSTATE PROJECTS.—

"(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a high risk category, as defined under subparagraph (B).

"(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.";

(3) in subsection (e)—

(A) in paragraph (1)(A)—

(i) in the matter preceding clause (i)—

(I) by striking "concept" and inserting "planning"; and

(II) by striking "multidisciplined" and inserting "multidisciplinary"; and

(ii) by striking clause (i) and inserting the following:

"(i) providing the needed functions safely, reliably, and at the lowest overall lifecycle cost;";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A) by striking "or other cost-reduction analysis";

(ii) in subparagraph (A)—

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

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

(iii) in subparagraph (B)—

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

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

(C) by striking paragraph (4) and inserting the following:

"(4) REQUIREMENTS.—

"(A) VALUE ENGINEERING PROGRAM.—The State shall develop and carry out a value engineering program that—

"(i) establishes and documents value engineering program policies and procedures;

"(ii) ensures that the required value engineering analysis is conducted before completing the final design of a project;

"(iii) ensures that the value engineering analysis that is conducted, and the recommendations developed and implemented for each project, are documented in a final value engineering report; and

"(iv) monitors, evaluates, and annually submits to the Secretary a report that describes the results of the value analyses that are conducted and the recommendations implemented for each of the projects described in paragraph (2) that are completed in the State.

"(B) BRIDGE PROJECTS.—The value engineering analysis for a bridge project under paragraph (2) shall—

"(i) include bridge superstructure and substructure requirements based on construction material; and

"(ii) be evaluated by the State—

"(I) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

"(II) using an analysis of lifecycle costs and duration of project construction.

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

(4) in subsection (h)—

(A) in paragraph (1)(B) by inserting ", including a phasing plan when applicable" after "financial plan"; and

(B) by striking paragraph (3) and inserting the following:

"(3) FINANCIAL PLAN.—A financial plan—

"(A) shall be based on detailed estimates of the cost to complete the project;

"(B) shall provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project;

"(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be

deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135; and

"(D) shall assess the appropriateness of a public-private partnership to deliver the project."; and

(5) by adding at the end the following:

"(j) USE OF ADVANCED MODELING TECHNOLOGIES.—

"(1) DEFINITION OF ADVANCED MODELING TECHNOLOGY.—In this subsection, the term 'advanced modeling technology' means an available or developing technology, including 3-dimensional digital modeling, that can—

"(A) accelerate and improve the environmental review process;

"(B) increase effective public participation;

"(C) enhance the detail and accuracy of project designs;

"(D) increase safety;

"(E) accelerate construction, and reduce construction costs; or

"(F) otherwise expedite project delivery with respect to transportation projects that receive Federal funding.

"(2) PROGRAM.—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 of the projects.

"(3) ACTIVITIES.—In carrying out paragraph (2), 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.

"(4) COMPREHENSIVE PLAN.—The Secretary shall develop and publish on the public website of the Department of Transportation a detailed and comprehensive plan for the implementation of paragraph (2).".

(b) 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.

[(c) TRANSPARENCY AND ACCOUNTABILITY.—

[(1) DATA COLLECTION.—The Secretary shall compile and make available on the public website of the Department of Transportation 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 public website of the Department of Transportation—

[(A) is organized by project and State;

[(B) to the maximum extent practicable, 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 website.

[(3) REPORT TO CONGRESS.—The Secretary shall annually 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 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. 1519. CONSOLIDATION OF PROGRAMS; REPEAL OF OBSOLETE PROVISIONS.

(a) CONSOLIDATION OF PROGRAMS.—[From administrative funds made available under section 104(a) of title 23, United States Code, not less than $3,000,000 for each of fiscal years 2013 and 2014 shall be made available] *For each of fiscal years 2016 through 2021, before making an apportionment under section 104(b)(3) of title 23, United States Code, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 of such title for the fiscal year, $3,500,000—*

(1) to carry out safety-related activities, including—

(A) to carry out the operation lifesaver program—

(i) to provide public information and education programs to help prevent and reduce motor vehicle accidents, injuries, and fatalities; and

(ii) to improve driver performance at railway-highway crossings; and

(B) to provide work zone safety grants in accordance with subsections (a) and (b) of section 1409 of the SAFETEA-LU (23 U.S.C. 401 note; 119 Stat. 1232); and

(2) to operate authorized safety-related clearinghouses, including—

(A) the national work zone safety information clearinghouse authorized by section 358(b)(2) of the National High-

way System Designation Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625); and

(B) a public road safety clearinghouse in accordance with section 1411(a) of the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1234).

(b) REPEALS.—

(1) TITLE 23.—

(A) IN GENERAL.—Sections 105, 110, 117, 124, 151, 155, 157, 160, 212, 216, 303, and 309 of title 23, United States Code, are repealed.

(B) SET ASIDES.—Section 118 of title 23, United States Code, is amended—

(i) by striking subsection (c); and

(ii) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(2) SAFETEA-LU.—Sections 1302, 1305, 1306, 1803, 1804, 1907, and 1958 of SAFETEA-LU (Public Law 109-59) are repealed.

(3) ADDITIONAL.—Section 1132 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 121 Stat. 1763) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) TITLE ANALYSIS.—

(A) CHAPTER 1.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 105, 110, 117, 124, 151, 155, 157, and 160.

(B) CHAPTER 2.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the items relating to sections 212 and 216.

(C) CHAPTER 3.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 303 and 309.

(2) TABLE OF CONTENTS.—The table of contents contained in section 1(b) of SAFETEA-LU (Public Law 109-59; 119 Stat. 1144) is amended by striking the items relating to sections 1302, 1305, 1306, 1803, 1804, 1907, and 1958.

[(3) SECTION 104.—Section 104(e) of title 23, United States Code, is amended by striking ", 105,".**]**

[(4)**]** *(3)* SECTION 109.—Section 109(q) of title 23, United States Code, is amended by striking "in accordance with section 303 or".

[(5)**]** *(4)* SECTION 118.—Section 118(b) of title 23, United States Code, is amended—

(A) by striking paragraph (1) and all that follows through the heading of paragraph (2); and

(B) by striking "(other than for Interstate construction)".

[(6)**]** *(5)* SECTION 130.—Section 130 of title 23, United States Code, is amended—

(A) in subsection (e) by striking "section 104(b)(5)" and inserting "section 104(b)(3)";

(B) in subsection (f)(1) by inserting "as in effect on the day before the date of enactment of the MAP-21" after "section 104(b)(3)(A)"; and

(C) in subsection (l) by striking paragraphs (3) and (4).

[(7)**]** *(6)* SECTION 131.—Section 131(m) of title 23, United States Code, is amended by striking "Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State" and inserting "A State".

[(8)**]** *(7)* SECTION 133.—Paragraph (13) of section 133(b) of title 23, United States Code (as amended by section 1108(a)(3)), is amended by striking "under section 303**[**.**]**".

[(9)**]** *(8)* SECTION 142.—Section 142 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by striking "motor vehicles (other **[**than rail**]** *than on rail)*" and inserting "buses";

(II) by striking "(hereafter in this section referred to as'buses')";

(III) by striking "Federal-aid systems" and inserting "Federal-aid highways"; and

(IV) by striking "Federal-aid system" and inserting "Federal-aid highway"; and

(ii) in paragraph (2)—

(I) by striking "as a project on the the surface transportation program for"; and

(II) by striking "section 104(b)(3)" and inserting "section 104(b)(2)";

(B) in subsection (b) by striking "104(b)(4)" and inserting "104(b)(1)";

(C) in subsection (c)—

(i) by striking "system" in each place it appears and inserting "highway"; and

(ii) by striking "highway facilities" and inserting "highways eligible under the program that is the source of the funds";

(D) in subsection (e)(2) by striking "Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects" and inserting "Projects authorized by subsection (a)(2)"; and

(E) in subsection (f) by striking "exits" and inserting "exists".

[(10)**]** *(9)* SECTION 145.—Section 145(b) of title 23, United States Code, is amended by striking "section 117 of this title,".

[(11)**]** *(10)* SECTION 218.—Section 218 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking the first two sentences;

(ii) in the third sentence—

(I) by striking ", in addition to such funds,"; and

(II) by striking "such highway or";

(iii) by striking the fourth sentence and fifth sentences;

(B) by striking subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

[(12)] *(11)* SECTION 610.—Section 610(d)(1)(B) of title 23, United States Code, is amended by striking "under section 105".

* * * * * * *

SEC. 1528. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) SENSE OF THE SENATE.—It is the Sense of the Senate that the timely completion of the Appalachian development highway system is a transportation priority in the national interest.

(b) MODIFIED FEDERAL SHARE FOR PROJECTS ON ADHS.—For fiscal years 2012 through 2021, the Federal share payable for the cost of constructing highways and access roads on the Appalachian development highway system under section 14501 of title 40, United States Code, with funds made available to a State for fiscal year 2012 or a previous fiscal year for the Appalachian development highway system program, or with funds made available for fiscal year 2012 or a previous fiscal year for a specific project, route, or corridor on that system, shall be 100 percent *(or a lower percentage if so requested by a State with respect to a project)*.

(c) FEDERAL SHARE FOR OTHER FUNDS USED ON ADHS.—For fiscal years 2012 through 2021, the Federal share payable for the cost of constructing highways and access roads on the Appalachian development highway system under section 14501 of title 40, United States Code, with Federal funds apportioned to a State for a program other than the Appalachian development highway system program shall be 100 percent *(or a lower percentage if so requested by a State with respect to a project)*.

(d) COMPLETION PLAN.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 1 year after the date of enactment of the MAP-21, each State represented on the Appalachian Regional Commission shall establish a plan for the completion of the designated corridors of the Appalachian development highway system within the State, including annual performance targets, with a target completion date.

(2) SIGNIFICANT UNCOMPLETED MILES.—If the percentage of remaining Appalachian development highway system needs for a State, according to the latest cost to complete estimate for the Appalachian development highway system, is greater than 15 percent of the total cost to complete estimate for the entire Appalachian development highway system, the State shall not establish a plan under paragraph (1) that would result in a reduction of obligated funds for the Appalachian development highway system within the State for any subsequent fiscal year.

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DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY

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TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012

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Subtitle A—Commercial Motor Vehicle Registration

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SEC. 32108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.

(a) PENALTIES.—Section 14901(a) is amended—

(1) by striking "$500" and inserting "$1,000";

(2) by striking "who is not registered under this part to provide transportation of passengers,";

(3) by striking "with respect to providing transportation of passengers," and inserting "or section 13902(c) of this title,"; and

(4) by striking "$2,000 for each violation and *for* each additional day the violation continues" and inserting "$10,000 for each violation, or $25,000 for each violation relating to providing transportation of passengers".

(b) TRANSPORTATION OF HAZARDOUS WASTES.—Section 14901(b) is amended by striking "not to exceed $20,000" and inserting "not less than $20,000, but not to exceed $40,000".

* * * * * * *

Subtitle C—Driver Safety

SEC. 32301. HOURS OF SERVICE STUDY AND ELECTRONIC LOGGING DEVICES.

(a) HOURS OF SERVICE STUDY.—

(1) FIELD STUDY.—

(A) 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.

(B) REQUIREMENT.—The field 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".

(C) CRITERIA.—In conducting the field study, the Secretary shall ensure that—

(i) the methodology for the field study is consistent, to the maximum extent possible, with the laboratory-based study methodology;

(ii) the data collected is representative of the drivers and motor carriers regulated by the hours of service regulations, including those drivers and carriers affected by the maximum driving time requirements;

(iii) the analysis is statistically valid; and

(iv) the field study follows the plan for the "Scheduling and Fatigue Recovery Project" developed by the Federal Motor Carrier Safety Administration.

(D) REPORT TO CONGRESS.—Not later than September 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 field study.

(b) GENERAL AUTHORITY.—Section 31137 is amended—

(1) by amending the section heading to read as follows:

"SEC. 31137. Electronic logging devices and brake maintenance regulations";

(2) by redesignating subsection (b) as subsection (g); and

(3) [by amending (a) to read as follows:] *by striking subsection (a) and inserting the following:*

"(a) USE OF ELECTRONIC LOGGING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

"(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic logging device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

"(2) ensuring that an electronic logging device is not used to harass a vehicle operator.

"(b) ELECTRONIC LOGGING DEVICE REQUIREMENTS.—

"(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

"(A) require an electronic logging device—

"(i) to accurately record commercial driver hours of service;

"(ii) to record the location of a commercial motor vehicle;

"(iii) to be tamper resistant; and

"(iv) to be synchronized to the operation of the vehicle engine or be capable of recognizing when the vehicle is being operated;

"(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

"(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

"(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

"(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

"(B) establishing a secure process for standardized—

"(i) and unique vehicle operator identification;

"(ii) data access;

"(iii) data transfer for vehicle operators between motor vehicles;

"(iv) data storage for a motor carrier; and

"(v) data transfer and transportability for law enforcement officials;

"(C) establishing a standard security level for an electronic logging device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

"(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

"(c) CERTIFICATION CRITERIA.—

"(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of electronic logging devices to ensure that the device meets the performance requirements under this section.

"(2) EFFECT OF NONCERTIFICATION.—Electronic logging devices that are not certified in accordance with the certification process referred to in paragraph (1) 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.

"(d) ADDITIONAL CONSIDERATIONS.—The Secretary, in prescribing the regulations described in subsection (a), shall consider how such regulations may—

"(1) 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; and

"(2) include such measures as the Secretary determines are necessary to protect the privacy of each individual whose personal data is contained in an electronic logging device.

"(e) 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 an

action taken by the Secretary or by law enforcement officials to enforce the regulations referred to in paragraph (1).

"(3) ENFORCEMENT.—The Secretary shall institute appropriate measures to ensure any information collected by electronic logging devices is used by enforcement personnel only for the purpose of determining compliance with hours of service requirements.

"(f) DEFINITIONS.—In this section:

"(1) ELECTRONIC LOGGING DEVICE.—The term 'electronic logging device' means an electronic device that—

"(A) is capable of recording a driver's hours of service and duty status accurately and automatically; and

"(B) meets the requirements established by the Secretary through regulation.

"(2) TAMPER RESISTANT.—The term 'tamper resistant' means resistant to allowing any individual to cause an electronic device to record the incorrect date, time, and location for changes to on-duty driving 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.".

(c) CIVIL PENALTIES.—Section 30165(a)(1) is amended by striking "or 30141 through 30147" and inserting "30141 through 30147, or 31137".

(d) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:

"31137. Electronic logging devices and brake maintenance regulations.".

SEC. 32302. DRIVER MEDICAL QUALIFICATIONS.

(a) 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 in accordance with section 31149(d)(1) of title 49, United States Code.

(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

"(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

"(i) the completion of specific courses and materials;

"(ii) certification, including, at a minimum, self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

"(iii) an examination that requires a passing grade; and

"(iv) demonstration of a medical examiner's willingness to meet the reporting requirements established by the Secretary;".

(c) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) by amending subparagraph (E) to read as follows:

"(E) require medical examiners to transmit electronically, on a monthly basis, the name of the applicant, a numerical identifier, and additional information contained on the medical examiner's certificate for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, to the chief medical examiner;";

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

(C) by adding at the end the following:

"(G) annually review the implementation of commercial driver's license requirements by not fewer than 10 States to assess the accuracy, validity, and timeliness of—

"(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

"(ii) the processing of the 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 procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 32302(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by [section 32303(c)(1)] *section 32302(c)(1)* of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

(d) ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.—Section 31311(a), as amended by sections 32203(b) and 32305(b) of this Act, is amended by adding at the end the following:

"(25) Not later than 5 years after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.".

(e) FUNDING.—The Secretary is authorized to utilize funds provided under section 4101(c)(1) of SAFETEA-LU (119 Stat. 1715) to support development of costs of the information technology needed to carry out section 31311(a)(25) of title 49, United States Code.

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Subtitle I—Miscellaneous

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PART II—HOUSEHOLD GOODS TRANSPORTATION

SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.

(a) Section 13902(a)(2) is amended—

(1) in subparagraph (B), by striking "section 13702(c);" and inserting "section 13702(c); and";

(2) by amending subparagraph (C) to read as follows:

"(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage."; and

(3) by striking subparagraph (D).

(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 32102 of this Act, is amended by adding at the end the following:

"(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—[(A) In addition]

(A) IN GENERAL.—In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

"(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

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PART III—TECHNICAL AMENDMENTS

SEC. 32931. UPDATE OF OBSOLETE TEXT.

(a) Section 31137(g), as redesignated by section 32301 of this Act, is amended by striking "Not later than December 1, 1990, the Secretary shall prescribe" and inserting "The Secretary shall maintain".

(b) Section 31151(a) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained."; and

(2) by striking paragraph (4).

(c) Section 31307(b) is amended by striking "Not later than December 18, 1994, the [Secretary] *Secretary of Transportation* shall prescribe" and inserting "The [Secretary] *Secretary of Transportation* shall maintain".

(d) Section 31310(g)(1) is amended by striking "Not later than 1 year after the date of enactment of this Act, the" and inserting "The".

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SEC. 32934. EXEMPTIONS FROM REQUIREMENTS FOR COVERED 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.

(5) Any requirement relating to vehicle inspection, repair, and maintenance 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.] *from—*

(A) a requirement described in subsection (a) or a compatible State requirement; or

(B) any other minimum standard provided by a State 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 (including an articulated 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 the State or 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—

(A) is operated pursuant to a crop share farm lease agreement;

(B) is owned by a tenant with respect to that agreement; and

(C) is transporting the landlord's portion of the crops under that agreement.

(d) SAFETY STUDY.—The Secretary of Transportation shall conduct a study of the exemption required by subsection (a) as follows:

(1) Data and analysis of covered farm vehicles shall include—

(A) the number of vehicles that are operated subject to each of the regulatory exemptions permitted under subsection (a);

(B) the number of drivers that operate covered farm vehicles subject to each of the regulatory exemptions permitted under subsection (a);

(C) the number of crashes involving covered farm vehicles;

(D) the number of occupants and non-occupants injured in crashes involving covered farm vehicles;

(E) the number of fatalities of occupants and non-occupants killed in crashes involving farm vehicles;

(F) crash investigations and accident reconstruction investigations of all fatalities in crashes involving covered farm vehicles;

(G) overall operating mileage of covered farm vehicles;

(H) numbers of covered farm vehicles that operate in neighboring States; and

(I) any other data the Secretary deems necessary to analyze and include.

(2) A listing of State regulations issued and maintained in each State that are identical to the Federal regulations that are subject to exemption in subsection (a).

(3) The Secretary shall report the findings of the study to the appropriate committees of Congress not later than 18 months after the date of enactment of this Act.

(e) CONSTRUCTION.—Nothing in this section shall be construed as authority for the Secretary of Transportation to prescribe regulations.

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TITLE 49, UNITED STATES CODE

Subtitle Sec.

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[IX. [Transferred] ..... **]**

IX. Multimodal Freight Transportation ***70101***

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SUBTITLE I—DEPARTMENT OF TRANSPORTATION

* * * * * * *

CHAPTER 1—ORGANIZATION

Sec.

101. Purpose.

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[112. Office of the Assistant Secretary for Research and Technology of the Department of Transportation.]

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116. National Surface Transportation and Innovative Finance Bureau.

117. Council on Credit and Finance.

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§ 102. Department of Transportation

(a) The Department of Transportation is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of Transportation appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) acts for the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has an Under Secretary of Transportation for Policy appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall provide leadership in the development of policy for the Department, supervise the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carry out other powers and duties prescribed by the Sec-

retary. The Under Secretary acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant.

(e) ASSISTANT SECRETARIES; GENERAL COUNSEL.—

(1) APPOINTMENT.—The Department has [5] *6* Assistant Secretaries and a General Counsel, including—

(A) an Assistant Secretary for Aviation and International Affairs, an Assistant Secretary for Governmental Affairs, *an Assistant Secretary for Research and Technology,* and an Assistant Secretary for Transportation Policy, who shall each be appointed by the President, with the advice and consent of the Senate;

(B) an Assistant Secretary for Budget and Programs who shall be appointed by the President;

(C) an Assistant Secretary for Administration, who shall be appointed by the Secretary, with the approval of the President; and

(D) a General Counsel, who shall be appointed by the President, with the advice and consent of the Senate.

(2) DUTIES AND POWERS.—The officers set forth in paragraph (1) shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are absent or unable to serve, or when the offices of the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are vacant.

(f) DEPUTY ASSISTANT SECRETARY FOR TRIBAL GOVERNMENT AFFAIRS.—

(1) ESTABLISHMENT.—In accordance with Federal policies promoting Indian self determination, the Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking relating to, or having an impact on, projects, programs, or funding associated with the tribal transportation program.

(2) RESERVATION OF TRUST OBLIGATIONS.—

(A) RESPONSIBILITY OF SECRETARY.—In carrying out this title, the Secretary shall be responsible to exercise the trust obligations of the United States to Indians and Indian tribes to ensure that the rights of a tribe or individual Indian are protected.

(B) PRESERVATION OF UNITED STATES RESPONSIBILITY.—Nothing in this title shall absolve the United States from any responsibility to Indians and Indian tribes, including responsibilities derived from the trust relationship and any treaty, executive order, or agreement between the United States and an Indian tribe.

(g) OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.—

(1) ESTABLISHMENT.—There is established in the Department an Office of Climate Change and Environment to plan, coordinate, and implement—

(A) department-wide research, strategies, and actions under the Department's statutory authority to reduce transportation-related energy use and mitigate the effects of climate change; and

(B) department-wide research strategies and actions to address the impacts of climate change on transportation systems and infrastructure.

(2) CLEARINGHOUSE.—The Office shall establish a clearinghouse of solutions, including cost-effective congestion reduction approaches, to reduce air pollution and transportation- related energy use and mitigate the effects of climate change.

(h) The Department shall have a seal that shall be judicially recognized.

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[§ 112. Office of the Assistant Secretary for Research and Technology of the Department of Transportation

[(a) ESTABLISHMENT.—The Office of the Assistant Secretary for Research and Technology of the Department of Transportation shall be an administration in the Department of Transportation.

[(b) ADMINISTRATOR.—

[(1) APPOINTMENT.—The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

[(2) REPORTING.—The Administrator shall report directly to the Secretary.

[(c) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary of Transportation. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

[(d) POWERS AND DUTIES OF THE ADMINISTRATOR.—The Administrator shall carry out—

[(1) powers and duties prescribed by the Secretary for—

[(A) coordination, facilitation, and review of the Department's research and development programs and activities;

[(B) advancement, and research and development, of innovative technologies, including intelligent transportation systems;

[(C) comprehensive transportation statistics research, analysis, and reporting;

[(D) education and training in transportation and transportation-related fields; and

[(E) activities of the Volpe National Transportation Center; and

[(2) other powers and duties prescribed by the Secretary.

[(e) ADMINISTRATIVE AUTHORITIES.—The Administrator may enter into grants and cooperative agreements with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

[(1) to conduct research into transportation service and infrastructure assurance; and

[(2) to carry out other research activities of the Administration.

[(f) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 and 2014, the Administrator is authorized to expend not more than 1 ½ percent of the amounts authorized to be appropriated for necessary expenses for administration and operations of the Research and Innovative Technology Administration for 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.).

[(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this section.]

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§ 116. National Surface Transportation and Innovative Finance Bureau

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a National Surface Transportation and Innovative Finance Bureau in the Department.

(b) PURPOSES.—The purposes of the Bureau shall be—

(1) to administer the application processes for programs within the Department in accordance with subsection (d);

(2) to promote innovative financing best practices in accordance with subsection (e);

(3) to reduce uncertainty and delays with respect to environmental reviews and permitting in accordance with subsection (f);

(4) to reduce costs and risks to taxpayers in project delivery and procurement in accordance with subsection (g); and

(5) to carry out subtitle IX of this title.

(c) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Bureau shall be headed by an Executive Director, who shall be appointed in the competitive service by the Secretary, with the approval of the President.

(2) DUTIES.—The Executive Director shall—

(A) report to the Under Secretary of Transportation for Policy;

(B) be responsible for the management and oversight of the daily activities, decisions, operations, and personnel of the Bureau;

(C) support the Council on Credit and Finance established under section 117 in accordance with this section; and

(D) carry out such additional duties as the Secretary may prescribe.

(d) ADMINISTRATION OF CERTAIN APPLICATION PROCESSES.—

(1) IN GENERAL.—The Bureau shall administer the application processes for the following programs:

(A) The infrastructure finance programs authorized under chapter 6 of title 23.

(B) The railroad rehabilitation and improvement financing program authorized under sections 501 through 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821–823).

(C) Amount allocations authorized under section 142(m) of the Internal Revenue Code of 1986.

(D) The nationally significant freight and highway projects program under section 117 of title 23.

(2) CONGRESSIONAL NOTIFICATION.—The Secretary shall ensure that the congressional notification requirements for each program referred to in paragraph (1) are followed in accordance with the statutory provisions applicable to the program.

(3) REPORTS.—The Secretary shall ensure that the reporting requirements for each program referred to in paragraph (1) are

followed in accordance with the statutory provisions applicable to the program.

(4) COORDINATION.—In administering the application processes for the programs referred to in paragraph (1), the Executive Director of the Bureau shall coordinate with appropriate officials in the Department and its modal administrations responsible for administering such programs.

(5) STREAMLINING APPROVAL PROCESSES.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Environment and Public Works of the Senate a report that—

(A) evaluates the application processes for the programs referred to in paragraph (1);

(B) identifies administrative and legislative actions that would improve the efficiency of the application processes without diminishing Federal oversight; and

(C) describes how the Secretary will implement administrative actions identified under subparagraph (B) that do not require an Act of Congress.

(6) PROCEDURES AND TRANSPARENCY.—

(A) PROCEDURES.—The Secretary shall, with respect to the programs referred to in paragraph (1)—

(i) establish procedures for analyzing and evaluating applications and for utilizing the recommendations of the Council on Credit and Finance;

(ii) establish procedures for addressing late-arriving applications, as applicable, and communicating the Bureau's decisions for accepting or rejecting late applications to the applicant and the public; and

(iii) document major decisions in the application evaluation process through a decision memorandum or similar mechanism that provides a clear rationale for such decisions.

(B) REVIEW.—

(i) IN GENERAL.—The Comptroller General of the United States shall review the compliance of the Secretary with the requirements of this paragraph.

(ii) RECOMMENDATIONS.—The Comptroller General may make recommendations to the Secretary in order to improve compliance with the requirements of this paragraph.

(iii) REPORT.—Not later than 3 years after the date of enactment of this section, the Comptroller General 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 Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under clause (i), including findings and recommendations for improvement.

(e) INNOVATIVE FINANCING BEST PRACTICES.—

(1) IN GENERAL.—The Bureau shall work with the modal administrations within the Department, the States, and other public and private interests to develop and promote best practices for innovative financing and public-private partnerships.

(2) ACTIVITIES.—The Bureau shall carry out paragraph (1)—

(A) by making Federal credit assistance programs more accessible to eligible recipients;

(B) by providing advice and expertise to State and local governments that seek to leverage public and private funding;

(C) by sharing innovative financing best practices and case studies from State and local governments with other State and local governments that are interested in utilizing innovative financing methods; and

(D) by developing and monitoring—

(i) best practices with respect to standardized State public-private partnership authorities and practices, including best practices related to—

(I) accurate and reliable assumptions for analyzing public-private partnership procurements;

(II) procedures for the handling of unsolicited bids;

(III) policies with respect to noncompete clauses; and

(IV) other significant terms of public-private partnership procurements, as determined appropriate by the Bureau;

(ii) standard contracts for the most common types of public-private partnerships for transportation facilities; and

(iii) analytical tools and other techniques to aid State and local governments in determining the appropriate project delivery model, including a value for money analysis.

(3) TRANSPARENCY.—The Bureau shall—

(A) ensure transparency of a project receiving credit assistance under a program identified in subsection (d)(1) and procured as a public-private partnership by—

(i) requiring the project sponsor of such project to undergo a value for money analysis or a comparable analysis prior to deciding to advance the project as a public-private partnership;

(ii) requiring the analysis required under subparagraph (A) and other key terms of the relevant public-private partnership agreement, to be made publicly available by the project sponsor at an appropriate time;

(iii) not later than 3 years after the completion of the project, requiring the project sponsor of such project to conduct a review regarding whether the private partner is meeting the terms of the relevant public private partnership agreement for the project; and

(iv) providing a publicly available summary of the total level of Federal assistance in such project; and

(B) develop guidance to implement this paragraph that takes into consideration variations in State and local laws and requirements related to public-private partnerships.

(4) SUPPORT TO PROJECTS SPONSORS.—At the request of a State or local government, the Bureau shall provide technical assistance to the State or local government regarding proposed public-private partnership agreements for transportation facilities, including assistance in performing a value for money analysis or comparable analysis.

(5) FIXED GUIDEWAY TRANSIT PROCEDURES REPORT.—Not later than 1 year after the date of enactment of this section, 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 that—

(A) evaluates the differences between traditional design-bid-build, design-build, and public-private partnership procurements for projects carried out under the fixed guideway capital investment program authorized under section 5309;

(B) identifies, for project procured as public-private partnerships whether the review and approval process under the program requires modification to better suit the unique nature of such procurements; and

(C) describes how the Secretary will implement any administrative actions identified under subparagraph (B) that do not require an Act of Congress.

(f) ENVIRONMENTAL REVIEW AND PERMITTING.—

(1) IN GENERAL.—The Bureau shall take such actions as are appropriate and consistent with the goals and policies set forth in this title and title 23, including with the concurrence of other Federal agencies as required under this title and title 23, to improve delivery timelines for projects.

(2) ACTIVITIES.—The Bureau shall carry out paragraph (1)—

(A) by serving as the Department's liaison to the Council on Environmental Quality;

(B) by coordinating Department-wide efforts to improve the efficiency and effectiveness of the environmental review and permitting process;

(C) by coordinating Department efforts under section 139 of title 23;

(D) by supporting modernization efforts at Federal agencies to achieve innovative approaches to the permitting and review of projects;

(E) by providing technical assistance and training to field and headquarters staff of Federal agencies on policy changes and innovative approaches to the delivery of projects;

(F) by identifying, developing, and tracking metrics for permit reviews and decisions by Federal agencies for projects under the National Environmental Policy Act of 1969; and

(G) by administering and expanding the use of Internet-based tools providing for—

(i) the development and posting of schedules for permit reviews and permit decisions for projects; and

(ii) the sharing of best practices related to efficient permitting and reviews for projects.

(3) SUPPORT TO PROJECT SPONSORS.—At the request of a State or local government, the Bureau, in coordination with the other appropriate modal agencies within the Department, shall provide technical assistance with regard to the compliance of a project sponsored by the State or local government with the requirements of the National Environmental Policy Act 1969 and relevant Federal environmental permits.

(g) PROJECT PROCUREMENT.—

(1) IN GENERAL.—The Bureau shall promote best practices in procurement for a project receiving assistance under a program identified in subsection (d)(1) by developing, in coordination with the Federal Highway Administration and other modal agencies as appropriate, procurement benchmarks in order to ensure accountable expenditure of Federal assistance over the life cycle of such project.

(2) PROCUREMENT BENCHMARKS.—The procurement benchmarks developed under paragraph (1) shall, to the maximum extent practicable—

(A) establish maximum thresholds for acceptable project cost increases and delays in project delivery;

(B) establish uniform methods for States to measure cost and delivery changes over the life cycle of a project; and

(C) be tailored, as necessary, to various types of project procurements, including design-bid-build, design-build, and public private partnerships.

(h) ELIMINATION AND CONSOLIDATION OF DUPLICATIVE OFFICES.—

(1) ELIMINATION OF OFFICES.—The Secretary may eliminate any office within the Department if the Secretary determines that the purposes of the office are duplicative of the purposes of the Bureau, and the elimination of such office shall not adversely affect the obligations of the Secretary under any Federal law.

(2) CONSOLIDATION OF OFFICES.—The Secretary may consolidate any office within the Department into the Bureau that the Secretary determines has duties, responsibilities, resources, or expertise that support the purposes of the Bureau.

(3) STAFFING AND BUDGETARY RESOURCES.—

(A) IN GENERAL.—The Secretary shall ensure that the Bureau is adequately staffed and funded.

(B) STAFFING.—The Secretary may transfer to the Bureau a position within the Department from any office that is eliminated or consolidated under this subsection if the Secretary determines that the position is necessary to carry out the purposes of the Bureau.

(C) BUDGETARY RESOURCES.—

(i) TRANSFER OF FUNDS FROM ELIMINATED OR CONSOLIDATED OFFICES.—The Secretary may transfer to the Bureau funds allocated to any office that is eliminated or consolidated under this subsection to carry out the purposes of the Bureau.

(ii) TRANSFER OF FUNDS ALLOCATED TO ADMINISTRATIVE COSTS.—The Secretary shall transfer to the Bureau funds allocated to the administrative costs of

processing applications for the programs referred to in subsection (d)(1).

(4) REPORT.—Not later than 180 days after the date of enactment of this section, the Secretary 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 Commerce, Science, and Transportation of the Senate a report that—

(A) lists the offices eliminated under paragraph (1) and provides the rationale for elimination of the offices;

(B) lists the offices consolidated under paragraph (2) and provides the rationale for consolidation of the offices; and

(C) describes the actions taken under paragraph (3) and provides the rationale for taking such actions.

(i) SAVINGS PROVISIONS.—

(1) LAWS AND REGULATIONS.—Nothing in this section may be construed to change a law or regulation with respect to a program referred to in subsection (d)(1).

(2) RESPONSIBILITIES.—Nothing in this section may be construed to abrogate the responsibilities of an agency, operating administration, or office within the Department otherwise charged by a law or regulation with other aspects of program administration, oversight, and project approval or implementation for the programs and projects subject to this section.

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

(1) BUREAU.—The term "Bureau" means the National Surface Transportation and Innovative Finance Bureau of the Department.

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

(3) MULTIMODAL PROJECT.—The term "multimodal project" means a project involving the participation of more than one modal administration or secretarial office within the Department.

(4) PROJECT.—The term "project" means a highway project, public transportation capital project, freight or passenger rail project, or multimodal project.

§ 117. Council on Credit and Finance

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Council on Credit and Finance in accordance with this section.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be composed of the following members:

(A) The Under Secretary of Transportation for Policy.

(B) The Chief Financial Officer and Assistant Secretary for Budget and Programs.

(C) The General Counsel of the Department of Transportation.

(D) The Assistant Secretary for Transportation Policy.

(E) The Administrator of the Federal Highway Administration.

(F) The Administrator of the Federal Transit Administration.

(G) The Administrator of the Federal Railroad Administration.

(2) ADDITIONAL MEMBERS.—The Secretary may designate up to 3 additional officials of the Department to serve as at-large members of the Council.

(3) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) CHAIRPERSON.—The Under Secretary of Transportation for Policy shall serve as the chairperson of the Council.

(B) VICE CHAIRPERSON.—The Chief Financial Officer and Assistant Secretary for Budget and Programs shall serve as the vice chairperson of the Council.

(4) EXECUTIVE DIRECTOR.—The Executive Director of the National Surface Transportation and Innovative Finance Bureau shall serve as a nonvoting member of the Council.

(c) DUTIES.—The Council shall—

(1) review applications for assistance submitted under the programs referred to in section 116(d)(1);

(2) make recommendations to the Secretary regarding the selection of projects to receive assistance under the programs referred to in section 116(d)(1);

(3) review, on a regular basis, projects that received assistance under the programs referred to in section 116(d)(1); and

(4) carry out such additional duties as the Secretary may prescribe.

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CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

Sec.
301. Leadership, consultation, and cooperation.

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304a. Accelerated decisionmaking in environmental reviews.

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307. Improving State and Federal agency engagement in environmental reviews.

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310. Aligning Federal environmental reviews.

SUBCHAPTER II—ADMINISTRATIVE

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[330. Research contracts.]
330. Research activities.

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SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

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§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites

(a) It is the policy of the United States Government 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.

(b) 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 lands crossed by transportation activities or facilities.

(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to [subsection (d)] *subsections (d), (e), and (f)*, the Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204 of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

(1) there is no prudent and feasible alternative to using that land; and

(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

(d) DE MINIMIS IMPACTS.—

(1) REQUIREMENTS.—

(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (c)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (c)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, in accordance with the consultation process required under section 306108 of title 54, United States Code, that—

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the

Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

(e) SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES.—

(1) IN GENERAL.—The Secretary shall—

(A) align, to the maximum extent practicable, the requirements of this section with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.) and section 306108 of title 54, including implementing regulations; and

(B) not later than 90 days after the date of enactment of this subsection, coordinate with the Secretary of the Interior and the Executive Director of the Advisory Council on Historic Preservation (referred to in this subsection as the "Council") to establish procedures to satisfy the requirements described in subparagraph (A) (including regulations).

(2) AVOIDANCE ALTERNATIVE ANALYSIS.—

(A) IN GENERAL.—If, in an analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the Secretary determines that there is no feasible or prudent alternative to avoid use of a historic site, the Secretary may—

(i) include the determination of the Secretary in the analysis required under that Act;

(ii) provide a notice of the determination to—

(I) each applicable State historic preservation officer and tribal historic preservation officer;

(II) the Council, if the Council is participating in the consultation process under section 306108 of title 54; and

(III) the Secretary of the Interior; and

(iii) request from the applicable preservation officer, the Council, and the Secretary of the Interior a concurrence that the determination is sufficient to satisfy the requirement of subsection (c)(1).

(B) CONCURRENCE.—If the applicable preservation officer, the Council, and the Secretary of the Interior each provide

a concurrence requested under subparagraph (A)(iii), no further analysis under subsection (a)(1) shall be required.

(C) PUBLICATION.—A notice of a determination, together with each relevant concurrence to that determination, under subparagraph (A) shall be—

(i) included in the record of decision or finding of no significant impact of the Secretary; and

(ii) posted on an appropriate Federal Web site by not later than 3 days after the date of receipt by the Secretary of all concurrences requested under subparagraph (A)(iii).

(3) ALIGNING HISTORICAL REVIEWS.—

(A) IN GENERAL.—If the Secretary, the applicable preservation officer, the Council, and the Secretary of the Interior concur that no feasible and prudent alternative exists as described in paragraph (2), the Secretary may provide to the applicable preservation officer, the Council, and the Secretary of the Interior notice of the intent of the Secretary to satisfy the requirements of subsection (c)(2) through the consultation requirements of section 306108 of title 54.

(B) SATISFACTION OF CONDITIONS.—To satisfy the requirements of subsection (c)(2), the applicable preservation officer, the Council, and the Secretary of the Interior shall concur in the treatment of the applicable historic site described in the memorandum of agreement or programmatic agreement developed under section 306108 of title 54.

(f) RAIL AND TRANSIT.—

(1) IN GENERAL.—Improvements to, or the maintenance, rehabilitation, or operation of, railroad or rail transit lines or elements thereof that are in use or were historically used for the transportation of goods or passengers shall not be considered a use of a historic site under subsection (c), regardless of whether the railroad or rail transit line or element thereof is listed on, or eligible for listing on, the National Register of Historic Places.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to—

(i) stations; or

(ii) bridges or tunnels located on—

(I) railroad lines that have been abandoned; or

(II) transit lines that are not in use.

(B) CLARIFICATION WITH RESPECT TO CERTAIN BRIDGES AND TUNNELS.—The bridges and tunnels referred to in subparagraph (A)(ii) do not include bridges or tunnels located on railroad or transit lines—

(i) over which service has been discontinued; or

(ii) that have been railbanked or otherwise reserved for the transportation of goods or passengers.

(g) REFERENCES TO PAST TRANSPORTATION ENVIRONMENTAL AUTHORITIES.—

(1) SECTION 4(F) REQUIREMENTS.—The requirements of this section are commonly referred to as section 4(f) requirements (see section 4(f) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 934) as in effect before the repeal of that section).

(2) SECTION 106 REQUIREMENTS.—The requirements of section 306108 of title 54 are commonly referred to as section 106 requirements (see section 106 of the National Historic Preservation Act of 1966 (Public Law 89–665; 80 Stat. 915) as in effect before the repeal of that section).

(h) BRIDGE EXEMPTION.—A common post-1945 concrete or steel bridge or culvert that is exempt from individual review under section 306108 of title 54 (as described in 77 Fed. Reg. 68790) shall be treated under this section as having a de minimis impact on an area.

* * * * * * *

§ 304. Application of categorical exclusions for multimodal projects

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

(1) COOPERATING AUTHORITY.—The term "cooperating authority" means a Department of Transportation [operating authority that] *operating administration or secretarial office that has expertise but* is not the lead authority with respect to a *proposed multimodal* project.

[(2) LEAD AUTHORITY.—The term "lead authority" means a Department of Transportation operating administration or secretarial office that—

[(A) is the lead authority over a proposed multimodal project; and

[(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

[(i) satisfy the conditions for a categorical exclusion under implementing regulations or procedures of the lead authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

[(ii) do not require the preparation of an environmental assessment or environmental impact statement under that Act.]

(2) LEAD AUTHORITY.—The term "lead authority" means a Department of Transportation operating administration or secretarial office that has the lead responsibility for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a proposed multimodal project.

(3) MULTIMODAL PROJECT.—The term "multimodal project" has the meaning given the term in section 139(a) of title 23.

(b) EXERCISE OF AUTHORITIES.—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title *or title 23*.

[(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—In considering the environmental impacts of a proposed multimodal project, a lead authority may apply a categorical exclusion designated under the implementing regulations or procedures of a cooperating authority for other components of the project, subject to the conditions that—

[(1) the multimodal project is funded under 1 grant agreement administered by the lead authority;

[(2) the multimodal project has components that require the expertise of a cooperating authority to assess the environmental impacts of the components;

[(3) the component of the project to be covered by the categorical exclusion of the cooperating authority has independent utility;

[(4) the cooperating authority, in consultation with the lead authority—

[(A) follows implementing regulations or procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

[(B) determines that a categorical exclusion under that Act applies to the components; and

[(5) the lead authority has determined that—

[(A) the project, using the categorical exclusions of the lead authority and each applicable cooperating authority, does not individually or cumulatively have a significant impact on the environment; and

[(B) extraordinary circumstances do not exist that merit additional analysis and documentation in an environmental impact statement or environmental assessment required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[(d) MODAL COOPERATION.—

[(1) IN GENERAL.—A cooperating authority shall provide modal expertise to the lead authority on such aspects of the multimodal project in which the cooperating authority has expertise.

[(2) USE OF CATEGORICAL EXCLUSION.—In a case described in paragraph (1), the 1 or more categorical exclusions of a cooperating authority may be applied by the lead authority once the cooperating authority reviews the project on behalf of the lead authority and determines the project satisfies the conditions for a categorical exclusion under the implementing regulations or procedures of the cooperating authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section.]

(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—In considering the environmental impacts of a proposed multimodal project, a lead authority may apply categorical exclusions designated under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in implementing regulations or procedures of a cooperating authority for a proposed multimodal project, subject to the conditions that—

(1) the lead authority makes a determination, with the concurrence of the cooperating authority—

(A) on the applicability of a categorical exclusion to a proposed multimodal project; and

(B) that the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section;

(2) the lead authority follows the cooperating authority's implementing regulations or procedures under such Act; and

(3) the lead authority determines that—

(A) the proposed multimodal project does not individually or cumulatively have a significant impact on the environment; and

(B) extraordinary circumstances do not exist that merit additional analysis and documentation in an environmental impact statement or environmental assessment required under such Act.

(d) COOPERATING AUTHORITY EXPERTISE.—A cooperating authority shall provide expertise to the lead authority on aspects of the multimodal project in which the cooperating authority has expertise.

§ 304a. Accelerated decisionmaking in environmental reviews

(a) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets attached to the statement, instead of rewriting the draft statement, subject to the condition that the errata sheets—

(1) cite the sources, authorities, and reasons that support the position of the agency; and

(2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(b) SINGLE DOCUMENT.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

(1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

(2) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.

(c) ADOPTION OF DOCUMENTS.—

(1) AVOIDING DUPLICATION.—To prevent duplication of analyses and support expeditious and efficient decisions, the operating administrations of the Department of Transportation shall use adoption and incorporation by reference in accordance with this paragraph.

(2) ADOPTION OF DOCUMENTS OF OTHER OPERATING ADMINISTRATIONS.—An operating administration or a secretarial office within the Department of Transportation may adopt a draft environmental impact statement, an environmental assessment, or a final environmental impact statement of another operating administration for the adopting operating administration's use when preparing an environmental assessment or final environmental impact statement for a project without recirculating the document for public review, if—

(A) the adopting operating administration certifies that its proposed action is substantially the same as the project considered in the document to be adopted;

(B) the other operating administration concurs with such decision; and

(C) such actions are consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) INCORPORATION BY REFERENCE.—An operating administration or secretarial office within the Department of Transportation may incorporate by reference all or portions of a draft environmental impact statement, an environmental assessment, or a final environmental impact statement for the adopting operating administration's use when preparing an environmental assessment or final environmental impact statement for a project if—

(A) the incorporated material is cited in the environmental assessment or final environmental impact statement and the contents of the incorporated material is briefly described;

(B) the incorporated material is reasonably available for inspection by potentially interested persons within the time allowed for review and comment; and

(C) the incorporated material does not include proprietary data that is not available for review and comment.

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§ 307. Improving State and Federal agency engagement in environmental reviews

(a) IN GENERAL.—

(1) REQUESTS TO PROVIDE FUNDS.—A public entity receiving financial assistance from the Department of Transportation for 1 or more projects, or for a program of projects, for a public purpose may request that the Secretary allow the public entity to provide funds to Federal agencies, including the Department, State agencies, and Indian tribes participating in the environmental planning and review process for the project, projects, or program.

(2) USE OF FUNDS.—The funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval, and consultation processes for the project, projects, or program.

(b) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under subsection (a) include transportation planning activities that precede the initiation of the environmental review process, activities directly related to the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

(c) AMOUNTS.—Requests under subsection (a) 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 timely conduct their review.

(d) AGREEMENTS.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under subsection (a), the affected Federal agency and the requesting public entity shall enter into an agreement that establishes a process to identify projects or priorities to be addressed by the use of the funds.

(e) RULEMAKING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall initiate a rulemaking to implement this section.

(2) FACTORS.—As part of the rulemaking carried out under paragraph (1), the Secretary shall ensure—

(A) to the maximum extent practicable, that expediting and improving the process of environmental review and permitting through the use of funds accepted and expended under this section does not adversely affect the timeline for review and permitting by Federal agencies, State agencies, or Indian tribes of other entities that have not contributed funds under this section;

(B) that the use of funds accepted under this section will not impact impartial decisionmaking with respect to environmental reviews or permits, either substantively or procedurally; and

(C) that the Secretary maintains, and makes publicly available, including on the Internet, a list of projects or programs for which such review or permits have been carried out using funds authorized under this section.

(f) EXISTING AUTHORITY.—Nothing in this section may be construed to conflict with section 139(j) of title 23.

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§ 310. Aligning Federal environmental reviews

(a) COORDINATED AND CONCURRENT ENVIRONMENTAL REVIEWS.—Not later than 1 year after the date of enactment of this section, the Department of Transportation, in coordination with the heads of Federal agencies likely to have substantive review or approval responsibilities under Federal law, shall develop a coordinated and concurrent environmental review and permitting process for transportation projects when initiating an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.; in this section referred to as "NEPA").

(b) CONTENTS.—The coordinated and concurrent environmental review and permitting process shall—

(1) ensure that the Department and agencies of jurisdiction possess sufficient information early in the review process to determine a statement of a transportation project's purpose and need and range of alternatives for analysis that the lead agency and agencies of jurisdiction will rely on for concurrent environmental reviews and permitting decisions required for the proposed project;

(2) achieve early concurrence or issue resolution during the NEPA scoping process on the Department of Transportation's statement of a project's purpose and need, and during development of the environmental impact statement on the range of alternatives for analysis, that the lead agency and agencies of jurisdiction will rely on for concurrent environmental reviews and permitting decisions required for the proposed project absent circumstances that require reconsideration in order to meet an agency of jurisdiction's obligations under a statute or Executive order; and

(3) achieve concurrence or issue resolution in an expedited manner if circumstances arise that require a reconsideration of the purpose and need or range of alternatives considered during any Federal agency's environmental or permitting review in order to meet an agency of jurisdiction's obligations under a statute or Executive order.

(c) ENVIRONMENTAL CHECKLIST.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary of Transportation and Federal agencies of jurisdiction likely to have substantive review or approval responsibilities on transportation projects shall jointly develop a checklist to help project sponsors identify potential natural, cultural, and historic resources in the area of a proposed project.

(2) PURPOSE.—The purpose of the checklist shall be to—

(A) identify agencies of jurisdiction and cooperating agencies;

(B) develop the information needed for the purpose and need and alternatives for analysis; and

(C) improve interagency collaboration to help expedite the permitting process for the lead agency and agencies of jurisdiction.

(d) INTERAGENCY COLLABORATION.—

(1) IN GENERAL.—Consistent with Federal environmental statutes, the Secretary shall facilitate annual interagency collaboration sessions at the appropriate jurisdictional level to coordinate business plans and facilitate coordination of workload planning and workforce management.

(2) PURPOSE OF COLLABORATION SESSIONS.—The interagency collaboration sessions shall ensure that agency staff is—

(A) fully engaged;

(B) utilizing the flexibility of existing regulations, policies, and guidance; and

(C) identifying additional actions to facilitate high quality, efficient, and targeted environmental reviews and permitting decisions.

(3) FOCUS OF COLLABORATION SESSIONS.—The interagency collaboration sessions, and the interagency collaborations generated by the sessions, shall focus on methods to—

(A) work with State and local transportation entities to improve project planning, siting, and application quality; and

(B) consult and coordinate with relevant stakeholders and Federal, tribal, State, and local representatives early in permitting processes.

(e) PERFORMANCE MEASUREMENT.—Not later than 1 year after the date of enactment of this section, the Secretary, in coordination with relevant Federal agencies, shall establish a program to measure and report on progress towards aligning Federal reviews as outlined in this section.

SUBCHAPTER II—ADMINISTRATIVE

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§ 330. Research [contracts] *activities*

(a) [The Secretary of] *IN GENERAL.—The Secretary of* Transportation may make contracts with educational institutions, public and private agencies and organizations, and persons for scientific or technological research into a problem related to programs carried out by the Secretary. Before making a contract, the Secretary must require the institution, agency, organization, or person to show that it is able to carry out the contract.

(b) [In carrying] *RESPONSIBILITIES.—In carrying* out this section, the Secretary shall—

(1) give advice and assistance the Secretary believes will best carry out the duties and powers of the Secretary;

(2) participate in coordinating all research started under this section;

(3) indicate the lines of inquiry most important to the Secretary; and

(4) encourage and assist in establishing and maintaining cooperation by and between contractors and between them and other research organizations, the Department of Transportation, and other departments, agencies, and instrumentalities of the United States Government.

(c) [The Secretary] *PUBLICATIONS.—The Secretary* may distribute publications containing information the Secretary considers relevant to research carried out under this section.

(d) DUTIES.—The Secretary shall provide for the following:

(1) Coordination, facilitation, and review of Department of Transportation research and development programs and activities.

(2) Advancement, and research and development, of innovative technologies, including intelligent transportation systems.

(3) Comprehensive transportation statistics research, analysis, and reporting.

(4) Education and training in transportation and transportation-related fields.

(5) Activities of the Volpe National Transportation Systems Center.

(6) Coordination in support of multimodal and multidisciplinary research activities.

(e) ADDITIONAL AUTHORITIES.—The Secretary may—

(1) enter into grants and cooperative agreements with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons to conduct research into transportation service and infrastructure assurance and to carry out other research activities of the Department of Transportation;

(2) carry out, on a cost-shared basis, collaborative research and development to encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology 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; and

(3) 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 Academies, 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.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (2), the Federal share of the cost of an activity carried out under subsection (e)(3) shall not exceed 50 percent.

(2) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

(3) 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 subsection (e)(3).

(g) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2016 through 2021, the Secretary is authorized to expend not more than 1 and a half percent of the amounts authorized to be appropriated for the coordination, evaluation, and oversight of the programs administered by the Office of the Assistant Secretary for Research and Technology.

(h) 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 section, 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.).

(i) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this section.

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SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

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CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL

Sec.
5101. Purpose.

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5111. Comprehensive oil spill response plans.

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§ 5103. General regulatory authority

(a) DESIGNATING MATERIAL AS HAZARDOUS.—The Secretary shall designate material (including an explosive, radioactive material, infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material, and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.

(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) transports hazardous material in commerce;

(ii) causes hazardous material to be transported in commerce;

(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

(iv) prepares or accepts hazardous material for transportation in commerce;

(v) is responsible for the safety of transporting hazardous material in commerce;

(vi) certifies compliance with any requirement under this chapter; or

(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi); and

(B) shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate.

(2) A proceeding to prescribe the regulations must be conducted under section 553 of title 5, including an opportunity for informal oral presentation.

(c) FEDERALLY DECLARED DISASTERS AND EMERGENCIES.—

(1) IN GENERAL.—The Secretary may by order waive compliance with any part of an applicable standard prescribed under this chapter without prior notice and comment and on terms the Secretary considers appropriate if the Secretary determines that—

(A) it is in the public interest to grant the waiver;

(B) the waiver is not inconsistent with the safety of transporting hazardous materials; and

(C) the waiver is necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) PERIOD OF WAIVER.—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver

would not be consistent with the goals and objectives of this chapter.

(3) STATEMENT OF REASONS.—The Secretary shall include in any order issued under this section the reason for granting the waiver.

[(c)] *(d)* CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.

[(d)] *(e)* BIENNIAL REPORT.—The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 51 of such title all by-products of the methamphetamine- production process that are known by the Secretary to pose an unreasonable risk to health and safety or property when transported in commerce in a particular amount and form.

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§ 5107. Hazmat employee training requirements and grants

(a) TRAINING REQUIREMENTS.—The Secretary shall prescribe by regulation requirements for training that a hazmat employer must give hazmat employees of the employer on the safe loading, unloading, handling, storing, and transporting of hazardous material and emergency preparedness for responding to an accident or incident involving the transportation of hazardous material. The regulations—

(1) shall establish the date, as provided by subsection (b) of this section, by which the training shall be completed; and

(2) may provide for different training for different classes or categories of hazardous material and hazmat employees.

(b) BEGINNING AND COMPLETING TRAINING.—A hazmat employer shall begin the training of hazmat employees of the employer not later than 6 months after the Secretary prescribes the regulations under subsection (a) of this section. The training shall be completed within a reasonable period of time after—

(1) 6 months after the regulations are prescribed; or

(2) the date on which an individual is to begin carrying out a duty or power of a hazmat employee if the individual is employed as a hazmat employee after the 6-month period.

(c) CERTIFICATION OF TRAINING.—After completing the training, each hazmat employer shall certify, with documentation the Secretary may require by regulation, that the hazmat employees of the employer have received training and have been tested on appropriate transportation areas of responsibility, including at least one of the following:

(1) recognizing and understanding the Department of Transportation hazardous material classification system.

(2) the use and limitations of the Department hazardous material placarding, labeling, and marking systems.

(3) general handling procedures, loading and unloading techniques, and strategies to reduce the probability of release or

damage during or incidental to transporting hazardous material.

(4) health, safety, and risk factors associated with hazardous material and the transportation of hazardous material.

(5) appropriate emergency response and communication procedures for dealing with an accident or incident involving hazardous material transportation.

(6) the use of the Department Emergency Response Guidebook and recognition of its limitations or the use of equivalent documents and recognition of the limitations of those documents.

(7) applicable hazardous material transportation regulations.

(8) personal protection techniques.

(9) preparing a shipping document for transporting hazardous material.

(d) COORDINATION OF TRAINING REQUIREMENTS.—In consultation with the Administrator of the Environmental Protection Agency and the Secretary of Labor, the Secretary shall ensure that the training requirements prescribed under this section do not conflict with or duplicate—

(1) the requirements of regulations the Secretary of Labor prescribes related to hazard communication, and hazardous waste operations, and emergency response that are contained in part 1910 of title 29, Code of Federal Regulations; and

(2) the regulations the Agency prescribes related to worker protection standards for hazardous waste operations that are contained in part 311 of title 40, Code of Federal Regulations.

(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*, State and local personnel responsible for enforcing the safe transportation of hazardous materials, or both*; and

(B) to the extent determined appropriate by the Secretary, for such instructors to train hazmat employees*, State and local personnel responsible for enforcing the safe transportation of hazardous materials, or both*.

(2) ELIGIBILITY.—A grant under this subsection shall be made through a competitive process to a nonprofit organization that demonstrates—

(A) expertise in conducting a training program for hazmat employees*, State and local personnel responsible for enforcing the safe transportation of hazardous materials, or both*; and

(B) the ability to reach and involve in a training program a target population of hazmat employees*, State and local personnel responsible for enforcing the safe transportation of hazardous materials, or both*.

(f) 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) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary under subsections (a)-(d) of this section.

(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) PERSONS REQUIRED TO FILE.—(1) A person shall file a registration statement with the Secretary under this subsection if the person is transporting or causing to be transported in commerce any of the following:

(A) a highway-route-controlled quantity of radioactive material.

(B) more than 25 kilograms of a Division 1.1, 1.2, or 1.3 explosive material in a motor vehicle, rail car, or transport container.

(C) more than one liter in each package of a hazardous material the Secretary designates as extremely toxic by inhalation.

(D) hazardous material in a bulk packaging, container, or tank, as defined by the Secretary, if the bulk packaging, container, or tank has a capacity of at least 3,500 gallons or more than 468 cubic feet.

(E) a shipment of at least 5,000 pounds (except in a bulk packaging) of a class of hazardous material for which placarding of a vehicle, rail car, or freight container is required under regulations prescribed under this chapter.

(2) The Secretary may require any of the following persons to file a registration statement with the Secretary under this subsection:

(A) a person transporting or causing to be transported hazardous material in commerce and not required to file a registration statement under paragraph (1) of this subsection.

(B) a person designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

(3) A person required to file a registration statement under this subsection may transport or cause to be transported, or design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or container for use in transporting, hazardous material, only if the person has a statement on file as required by this subsection.

(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transpor-

tation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.

(b) FORM, CONTENTS, AND LIMITATION ON FILINGS.—(1) A registration statement under subsection (a) of this section shall be in the form and contain information the Secretary requires by regulation. The Secretary may use existing forms of the Department of Transportation and the Environmental Protection Agency to carry out this subsection. The statement shall include—

(A) the name and principal place of business of the registrant;

(B) a description of each activity the registrant carries out for which filing a statement under subsection (a) of this section is required; and

(C) each State in which the person carries out any of the activities.

(2) A person carrying out more than one activity, or an activity at more than one location, for which filing is required only has to file one registration statement to comply with subsection (a) of this section.

(c) FILING.—Each person required to file a registration statement under subsection (a) shall file the statement in accordance with regulations prescribed by the Secretary.

(d) SIMPLIFYING THE REGISTRATION PROCESS.—The Secretary may take necessary action to simplify the registration process under subsections (a)-(c) of this section and to minimize the number of applications, documents, and other information a person is required to file under this chapter and other laws of the United States.

(e) COOPERATION WITH ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall assist the Secretary in carrying out subsections (a)-(g)(1) and (h) of this section by providing the Secretary with information the Secretary requests to carry out the objectives of subsections (a)-(g)(1) and (h).

(f) AVAILABILITY OF STATEMENTS.—The Secretary shall make a registration statement filed under subsection (a) of this section available for inspection by any person for a fee the Secretary establishes. However, this subsection does not require the release of information described in section 552(b) of title 5 or otherwise protected by law from disclosure to the public.

(g) FEES.—(1) The Secretary shall establish, impose, and collect from a person required to file a registration statement under subsection (a) of this section a fee necessary to pay for the costs of the Secretary in processing the statement.

(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 $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) gross revenue from transporting hazardous material.

(ii) the type of hazardous material transported or caused to be transported.

(iii) the amount of hazardous material transported or caused to be transported.

(iv) the number of shipments of hazardous material.

(v) the number of activities that the person carries out for which filing a registration statement is required under this section.

(vi) the threat to property, individuals, and the environment from an accident or incident involving the hazardous material transported or caused to be transported.

(vii) the percentage of gross revenue derived from transporting hazardous material.

(viii) the amount to be made available to carry out sections 5108(g)(2), 5115, and 5116 of this title.

(ix) other factors the Secretary considers appropriate.

(B) The Secretary shall adjust the amount being collected under this paragraph to reflect any unexpended balance in the account established under section [5116(i)] *5116(h)* of this title. However, the Secretary is not required to refund any fee collected under this paragraph.

(C) The Secretary shall transfer to the Secretary of the Treasury amounts the Secretary of Transportation collects under this paragraph for deposit in the Hazardous Materials Emergency Preparedness Fund established under section [5116(i)] *5116(h)* of this title.

(3) FEES ON EXEMPT PERSONS.—Notwithstanding subsection (a)(4), the Secretary shall impose and collect a fee of $25 from a person who is required to register under this section but who is otherwise exempted by the Secretary from paying any fee under this section. The fee shall be used to pay the costs incurred by the Secretary in processing registration statements filed by such persons.

(h) MAINTAINING PROOF OF FILING AND PAYMENT OF FEES.—The Secretary may prescribe regulations requiring a person required to file a registration statement under subsection (a) of this section to maintain proof of the filing and payment of fees imposed under subsection (g) of this section.

(i) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary under subsections (a)-(g)(1) and (h) of this section.

(2)(A) This section does not apply to an employee of a hazmat employer.

(B) Subsections (a)-(h) of this section do not apply to a department, agency, or instrumentality of the United States Government, an authority of a State or political subdivision of a State, an Indian tribe, or an employee of a department, agency, instrumentality, or authority carrying out official duties.

§ 5109. Motor carrier safety permits

(a) REQUIREMENT.—A motor carrier may transport or cause to be transported by motor vehicle in commerce hazardous material only if the carrier holds a safety permit the Secretary issues under this section authorizing the transportation and keeps a copy of the permit, or other proof of its existence, in the vehicle. The Secretary shall issue a permit if the Secretary finds the carrier is fit, willing, and able—

(1) to provide the transportation to be authorized by the permit;

(2) to comply with this chapter and regulations the Secretary prescribes to carry out this chapter; and

(3) to comply with applicable United States motor carrier safety laws and regulations and applicable minimum financial responsibility laws and regulations.

(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 explosive;

(2) liquefied natural gas;

(3) hazardous material the Secretary designates as extremely toxic by inhalation; and

(4) a highway-route-controlled quantity of radioactive material, as defined by the Secretary.

(c) APPLICATIONS.—A motor carrier shall file an application with the Secretary for a safety permit to provide transportation under this section. The Secretary may approve any part of the application or deny the application. The application shall be under oath and contain information the Secretary requires by regulation.

(d) AMENDMENTS, SUSPENSIONS, AND REVOCATIONS.—(1) After notice and an opportunity for a hearing, the Secretary may amend, suspend, or revoke a safety permit, as provided by procedures prescribed under subsection (e) of this section, when the Secretary decides the motor carrier is not complying with a requirement of this chapter, a regulation prescribed under this chapter, or an applicable United States motor carrier safety law or regulation or minimum financial responsibility law or regulation.

(2) If the Secretary decides an imminent hazard exists, the Secretary may amend, suspend, or revoke a permit before scheduling a hearing.

(e) PROCEDURES.—The Secretary shall prescribe by regulation—

(1) application procedures, including form, content, and fees necessary to recover the complete cost of carrying out this section;

(2) standards for deciding the duration, terms, and limitations of a safety permit;

(3) procedures to amend, suspend, or revoke a permit; and

(4) other procedures the Secretary considers appropriate to carry out this section.

(f) SHIPPER 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.

(g) CONDITIONS.—A motor carrier may provide transportation under a safety permit issued under this section only if the carrier complies with conditions the Secretary finds are required to protect public safety.

[(h) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section not later than November 16, 1991.]

(h) LIMITATION ON DENIAL.—The Secretary may not deny a nontemporary permit held by a motor carrier pursuant to this section based on a comprehensive review of that carrier triggered by safety management system scores or out-of-service disqualification standards, unless—

(1) the carrier has the opportunity, prior to the denial of such permit, to submit a written description of corrective actions taken and other documentation the carrier wishes the Secretary to consider, including a corrective action plan; and

(2) the Secretary determines the actions or plan is insufficient to address the safety concerns identified during the course of the comprehensive review.

* * * * * * *

§ 5111. Comprehensive oil spill response plans

(a) REQUIREMENTS.—Not later than 120 days after the date of enactment of this section, the Secretary shall issue such regulations as are necessary to require any railroad carrier transporting a Class 3 flammable liquid to maintain a comprehensive oil spill response plan.

(b) CONTENTS.—The regulations under subsection (a) shall require each railroad carrier described in that subsection to—

(1) include in the comprehensive oil spill response plan procedures and resources, including equipment, for responding, to the maximum extent practicable, to a worst-case discharge;

(2) ensure that the comprehensive oil spill response plan is consistent with the National Contingency Plan and each applicable Area Contingency Plan;

(3) include in the comprehensive oil spill response plan appropriate notification and training procedures and procedures for coordinating with Federal, State, and local emergency responders;

(4) review and update its comprehensive oil spill response plan as appropriate; and

(5) provide the comprehensive oil spill response plan for acceptance by the Secretary.

(c) SAVINGS CLAUSE.—Nothing in the section may be construed to prohibit the Secretary from promulgating differing comprehensive oil response plan standards for Class I railroads, Class II railroads, and Class III railroads.

(d) RESPONSE PLANS.—The Secretary shall—

(1) maintain on file a copy of the most recent comprehensive oil spill response plans prepared by a railroad carrier transporting a Class 3 flammable liquid; and

(2) provide to a person, upon written request, a copy of the plan, which may exclude, as the Secretary determines appropriate—

(A) proprietary information;

(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations;

(C) specific response resources and tactical resource deployment plans; and

(D) the specific amount and location of worst-case discharges, including the process by which a railroad carrier determines the worst-case discharge.

(e) RELATIONSHIP TO FOIA.—Nothing in this section may be construed to require disclose of information or records that are exempt from disclosure under section 552 of title 5.

(f) DEFINITIONS.—

(1) AREA CONTINGENCY PLAN.—The term "Area Contingency Plan" has the meaning given the term in section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)).

(2) CLASS 3 FLAMMABLE LIQUID.—The term "Class 3 flammable liquid" has the meaning given the term flammable liquid in section 173.120 of title 49, Code of Federal Regulations.

(3) CLASS I RAILROAD; CLASS II RAILROAD; AND CLASS III RAILROAD.—The terms "Class I railroad", "Class II railroad", and "Class III railroad" have the meaning given those terms in section 20102.

(4) NATIONAL CONTINGENCY PLAN.—The term "National Contingency Plan" has the meaning given the term in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701).

(5) RAILROAD CARRIER.—The term "railroad carrier" has the meaning given the term in section 20102.

(6) WORST-CASE DISCHARGE.—The term "worst-case discharge" means the largest foreseeable discharge of oil in the event of an accident or incident, as determined by each railroad carrier in accordance with regulations issued under this section.

* * * * * * *

§ 5115. Training curriculum for the public sector

(a) IN GENERAL.—In coordination with the Administrator of the Federal Emergency Management Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary of Transportation shall maintain, and update periodically, a current curriculum of courses*, including online curriculum as appropriate,* necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material. Only in developing the curriculum, the Secretary of Transportation shall consult with regional response teams established under the national contingency plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), representatives of commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001), persons (including governmental entities) that provide training for responding to accidents and incidents involving the transportation of hazardous material, and representatives of persons that respond to those accidents and incidents.

(b) REQUIREMENTS.—The curriculum maintained and updated under subsection (a) of this section—

(1) shall include—

(A) a recommended course of study to train public sector employees to respond to an accident or incident involving the transportation of hazardous material and to plan for those responses;

(B) recommended courses and minimum number of hours of instruction necessary for public sector employees to be able to respond safely and efficiently to an accident or incident involving the transportation of hazardous material and to plan those responses; and

(C) appropriate emergency response training and planning programs for public sector employees developed with Federal financial assistance, including programs developed with grants made under section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9660a); and

(2) may include recommendations on material appropriate for use in a recommended course described in clause (1)(B) of this subsection.

(c) TRAINING ON COMPLYING WITH LEGAL REQUIREMENTS.—A recommended course described in subsection (b)(1)(B) of this section shall provide the training necessary for public sector employees to comply with—

(1) regulations related to hazardous waste operations and emergency response contained in part 1910 of title 29, Code of Federal Regulations, prescribed by the Secretary of Labor;

(2) regulations related to worker protection standards for hazardous waste operations contained in part 311 of title 40, Code of Federal Regulations, prescribed by the Administrator; and

(3) standards related to emergency response training prescribed by the National Fire Protection Association and such other voluntary consensus standard-setting organizations as the Secretary of Transportation determines appropriate.

(d) DISTRIBUTION AND PUBLICATION.—With the National Response Team—

(1) the Secretary shall distribute the curriculum and any updates to the curriculum to the regional response teams and all committees and commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001); and

(2) the Secretary may publish and distribute a list of programs and courses maintained and updated under this section and of any programs utilizing such courses.

§ 5116. Planning and training grants, monitoring, and review

[(a) PLANNING GRANTS.—(1) The Secretary shall make grants to States and Indian tribes—

[(A) to develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.), including ascertaining flow patterns of hazardous material on lands

under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe; and

[(B) to decide on the need for a regional hazardous material emergency response team.

[(2) The Secretary may make a grant to a State or Indian tribe under paragraph (1) of this subsection in a fiscal year only if—

[(A) the State or Indian tribe certifies that the total amount the State or Indian tribe expends (except amounts of the United States Government) to develop, improve, and carry out emergency plans under the Act will at least equal the average level of expenditure for the last 5 fiscal years; and

[(B) the State agrees to make available at least 75 percent of the amount of the grant under paragraph (1) of this subsection in the fiscal year to local emergency planning committees established under section 301(c) of the Act (42 U.S.C. 11001(c)) to develop emergency plans under the Act.

[(3) A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.

[(b) TRAINING GRANTS.—(1) The Secretary shall make grants to States and Indian tribes to train public sector employees to respond to accidents and incidents involving hazardous material. To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials.

[(2) The Secretary may make a grant under paragraph (1) of this subsection in a fiscal year—

[(A) to a State or Indian tribe only if the State or tribe certifies that the total amount the State or tribe expends (except amounts of the Government) to train public sector employees to respond to an accident or incident involving hazardous material will at least equal the average level of expenditure for the last 5 fiscal years;

[(B) to a State or Indian tribe only if the State or tribe makes an agreement with the Secretary that the State or tribe will use in that fiscal year, for training public sector employees to respond to an accident or incident involving hazardous material—

[(i) a course developed or identified under section 5115 of this title; or

[(ii) another course the Secretary decides is consistent with the objectives of this section; and

[(C) to a State only if the State agrees to make available at least 75 percent of the amount of the grant under paragraph (1) of this subsection in the fiscal year for training public sector employees a political subdivision of the State employs or uses.

[(3) A grant under this subsection may be used—

[(A) to pay—

[(i) the tuition costs of public sector employees being trained;

[(ii) travel expenses of those employees to and from the training facility;

[(iii) room and board of those employees when at the training facility; and

[(iv) travel expenses of individuals providing the training;

[(B) by the State, political subdivision, or Indian tribe to provide the training; and

[(C) to make an agreement the Secretary approves authorizing a person (including an authority of a State or political subdivision of a State or Indian tribe) to provide the training—

[(i) if the agreement allows the Secretary and the State or tribe to conduct random examinations, inspections, and audits of the training without prior notice; and

[(ii) if the State or tribe conducts at least one on-site observation of the training each year.

[(4) The Secretary shall allocate amounts made available for grants under this subsection for a fiscal year among eligible States and Indian tribes based on the needs of the States and tribes for emergency response training. In making a decision about those needs, the Secretary shall consider—

[(A) the number of hazardous material facilities in the State or on land under the jurisdiction of the tribe;

[(B) the types and amounts of hazardous material transported in the State or on that land;

[(C) whether the State or tribe imposes and collects a fee on transporting hazardous material;

[(D) whether the fee is used only to carry out a purpose related to transporting hazardous material; and

[(E) other factors the Secretary decides are appropriate to carry out this subsection.]

(a) PLANNING AND TRAINING GRANTS.—(1) The Secretary shall make grants to States and Indian tribes—

(A) to develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.), including ascertaining flow patterns of hazardous material on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe;

(B) to decide on the need for regional hazardous material emergency response teams; and

(C) to train public sector employees to respond to accidents and incidents involving hazardous material.

(2) To the extent that a grant is used to train emergency responders under paragraph (1)(C), the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protec-

tion Association standards for competence of responders to accidents and incidents involving hazardous materials.

(3) The Secretary may make a grant to a State or Indian tribe under paragraph (1) of this subsection only if—

(A) the State or Indian tribe certifies that the total amount the State or Indian tribe expends (except amounts of the Federal Government) for the purpose of the grant will at least equal the average level of expenditure for the last 5 years; and

(B) any emergency response training provided under the grant shall consist of—

(i) a course developed or identified under section 5115 of this title; or

(ii) any other course the Secretary determines is consistent with the objectives of this section.

(4) A State or Indian tribe receiving a grant under this subsection shall ensure that planning and emergency response training under the grant is coordinated with adjacent States and Indian tribes.

(5) A training grant under paragraph (1)(C) may be used—

(A) to pay—

(i) the tuition costs of public sector employees being trained;

(ii) travel expenses of those employees to and from the training facility;

(iii) room and board of those employees when at the training facility; and

(iv) travel expenses of individuals providing the training;

(B) by the State, political subdivision, or Indian tribe to provide the training; and

(C) to make an agreement with a person (including an authority of a State, a political subdivision of a State or Indian tribe, or a local jurisdiction), subject to approval by the Secretary, to provide the training—

(i) if the agreement allows the Secretary and the State or Indian tribe to conduct random examinations, inspections, and audits of the training without prior notice;

(ii) the person agrees to have an auditable accounting system; and

(iii) if the State or Indian tribe conducts at least one on-site observation of the training each year.

(6) The Secretary shall allocate amounts made available for grants under this subsection among eligible States and Indian tribes based on the needs of the States and Indian tribes for emergency response training. In making a decision about those needs, the Secretary shall consider—

(A) the number of hazardous material facilities in the State or on land under the jurisdiction of the Indian tribe;

(B) the types and amounts of hazardous material transported in the State or on such land;

(C) whether the State or Indian tribe imposes and collects a fee on transporting hazardous material;

(D) whether such fee is used only to carry out a purpose related to transporting hazardous material;

(E) the past record of the State or Indian tribe in effectively managing planning and training grants; and

(F) any other factors the Secretary determines are appropriate to carry out this subsection.

[(c)] *(b)* 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).

[(d)] *(c)* APPLICATIONS.—A State or Indian tribe interested in receiving a grant under this section shall submit an application to the Secretary. The application must be submitted at the time, and contain information, the Secretary requires by regulation to carry out the objectives of this section.

[(e)] *(d)* GOVERNMENT'S SHARE OF COSTS.—A grant under this section is for 80 percent of the cost the State or Indian tribe incurs in the fiscal year to carry out the activity for which the grant is made. Amounts of the State or tribe under [subsections (a)(2)(A) and (b)(2)(A)] *subsection (a)(3)(A)* of this section are not part of the non-Government share under this subsection.

[(f)] *(e)* MONITORING AND TECHNICAL ASSISTANCE.—In coordination with the Secretaries of Transportation and Energy, Administrator of the Environmental Protection Agency, and Director of the National Institute of Environmental Health Sciences, the Administrator of the Federal Emergency Management Agency shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretaries, Administrators, and Director each shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.

[(g)] *(f)* DELEGATION OF AUTHORITY.—To minimize administrative costs and to coordinate Federal financial assistance for emergency response training and planning, the Secretary may delegate to the Administrator of the Federal Emergency Management Agency, Director of the National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, Administrator of the Environmental Protection Agency, and Secretaries of Labor and Energy any of the following:

(1) authority to receive applications for grants under this section.

(2) authority to review applications for technical compliance with this section.

(3) authority to review applications to recommend approval or disapproval.

(4) any other ministerial duty associated with grants under this section.

[(h)] *(g)* MINIMIZING DUPLICATION OF EFFORT AND EXPENSES.—The Secretaries of Transportation, Labor, and Energy, Administrator of the Federal Emergency Management Agency, Director of the National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, and Administrator of the Environmental Protection Agency shall review periodically,

with the head of each department, agency, or instrumentality of the Government, all emergency response and preparedness training programs of that department, agency, or instrumentality to minimize duplication of effort and expense of the department, agency, or instrumentality in carrying out the programs and shall take necessary action to minimize duplication.

[(i)**]** *(h)* ANNUAL REGISTRATION FEE ACCOUNT AND ITS USES.—The Secretary of the Treasury shall establish an account in the Treasury (to be known as the "Hazardous Materials Emergency Preparedness Fund") into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

(1) to make grants under this section *and section 5107(e)*;

(2) to monitor and provide technical assistance under subsection **[**(f)**]** *(e)* of this section;

(3) to publish and distribute an emergency response guide; and

(4) to pay administrative costs of carrying out this section and sections **[**5108(g)(2) and 5115**]** *5107(e) and 5108(g)(2)* of this title, except that not more than 2 percent of the amounts made available from the account in a fiscal year may be used to pay those costs.

[(j)**]** *(i)* SUPPLEMENTAL TRAINING GRANTS.—

(1) In order to further the purposes of **[**subsection (b)**]** *subsection (a)*, the Secretary shall, subject to the availability of funds and through a competitive process, make a grant or 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.

(2) For the purposes of this subsection the Secretary, after consultation with interested organizations, shall—

(A) identify regions or locations in which fire departments or other organizations which provide emergency response to hazardous materials transportation accidents and incidents are in need of hazardous materials training; and

(B) prioritize such needs and develop a means for identifying additional specific training needs.

(3) Funds granted to an organization under this subsection shall only be used—

(A) to provide training, including portable training, for instructors to conduct hazardous materials response training programs;

(B) to purchase training equipment used exclusively to train instructors to conduct such training programs; and

(C) to disseminate such information and materials as are necessary for the conduct of such 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 provide training, including portable training, for instructors to conduct hazardous

materials response training programs in such fiscal year that will use—

(A) a course or courses developed or identified under section 5115 of this title; or

(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

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 Federal regulations and national consensus standards for hazardous materials response and be open to all such individuals on a nondiscriminatory basis.

(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials.

(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.

(7) For the purposes of this subsection, the term "portable training" means live, instructor-led training provided by certified fire service instructors that can be offered in any suitable setting, rather than specific designated facilities. Under this training delivery model, instructors travel to locations convenient to students and utilize local facilities and resources.

(8) The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

[(k)**]** *(j)* REPORTS.—The Secretary shall submit an annual report 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 the report to the public. The report submitted under this subsection shall include information on the allocation and uses of the **[**planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j)**]** *planning and training grants under subsection (a) and grants under subsection (i)* of this section and under section 5107. The report submitted under this subsection shall identify the ultimate recipients of such grants and include—

[(A)**]** *(1)* a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

[(B)**]** *(2)* the number of persons trained under the grant program, by training level;

[(C)] *(3)* an evaluation of the efficacy of such planning and training programs; and

[(D)] *(4)* any recommendations the Secretary may have for improving such grant programs.

§ 5117. Special permits and exclusions

(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—(1) As provided under procedures prescribed by regulation, 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) at least equal to the safety level required under this chapter; or

(B) consistent with the public interest and this chapter, if a required safety level does not exist.

(2) 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.

(b) APPLICATIONS.—When applying for a special permit or renewal of a special permit under this section, the person must provide a safety analysis prescribed by the Secretary that justifies the special permit. *The Secretary shall make available to the public on the Department of Transportation's Internet Web site any special permit other than a new special permit or a modification to an existing special permit and shall give the public an opportunity to inspect the safety analysis and comment on the application for a period of not more than 15 days.* The Secretary shall publish in the Federal Register notice that [an application for a special permit] *an application for a new special permit or a modification to an existing special permit* has been filed and shall give the public an opportunity to inspect the safety analysis and comment on the application. This subsection does not require the release of information protected by law from public disclosure.

(c) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall issue or renew [the special permit] *a special permit or approval* for which an application was filed or deny such issuance or renewal within [180] *120* days after the first day of the month following the date of the filing of such application, or the Secretary shall [publish] *make available to the public* a statement [in the Federal Register] of the reason why the Secretary's decision on [the special permit] *a special permit or approval* is delayed, along with an estimate of the additional time necessary before the decision is made.

(d) EXCLUSIONS.—(1) The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

(A) a public vessel (as defined in section 2101 of title 46);

(B) a vessel exempted under section 3702 of title 46 from chapter 37 of title 46; and

(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.).

(2) This chapter and regulations prescribed under this chapter do not prohibit—

(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

(B) transportation of a firearm or ammunition in commerce.

(e) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, a special permit or renewal granted under this section is the only way a person subject to this chapter may be granted a variance from this chapter.

(f) INCORPORATION INTO REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date on which a special permit has been in continuous effect for a 10-year period, the Secretary shall conduct a review and analysis of that special permit to determine whether it may be converted into the hazardous materials regulations.

(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

(A) the safety record for hazardous materials transported under the special permit;

(B) the application of a special permit;

(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

(D) rulemaking activity in related areas.

(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and after providing notice and opportunity for public comment, the Secretary shall either institute a rulemaking to incorporate the special permit into the hazardous materials regulations or publish in the Federal Register the Secretary's justification for why the special permit is not appropriate for incorporation into the regulations.

(g) DISCLOSURE OF FINAL ACTION.—The Secretary shall periodically, but at least every 120 days—

(1) publish in the Federal Register notice of the final disposition of each application for a new special permit, modification to an existing special permit, or approval during the preceding quarter; and

(2) make available to the public on the Department of Transportation's Internet Web site notice of the final disposition of any other special permit during the preceding quarter.

§ 5118. Hazardous material technical assessment, research and development, and analysis program

(a) RISK REDUCTION.—

(1) PROGRAM AUTHORIZED.—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

(A) reducing the risks associated with the transportation of hazardous material; and

(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

(2) COORDINATION.—In developing the program under paragraph (1), the Secretary shall—

(A) utilize information gathered from other modal administrations with similar programs; [and]

(B) coordinate with other modal administrations, as appropriate[.]*; and*

(C) coordinate, as appropriate, with other Federal agencies.

(b) COOPERATION.—In carrying out subsection (a), the Secretary shall work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.

(c) COOPERATIVE RESEARCH.—

(1) IN GENERAL.—As part of the program established in subsection (a), the Secretary may carry out cooperative research on hazardous materials transport.

(2) NATIONAL ACADEMIES.—The Secretary may enter into an agreement with the National Academies to support such research.

(3) RESEARCH.—Research conducted under this subsection may include activities related to—

(A) emergency planning and response, including information and programs that can be readily assessed and implemented in local jurisdictions;

(B) risk analysis and perception and data assessment;

(C) commodity flow data, including voluntary collaboration between shippers and first responders for secure data exchange of critical information;

(D) integration of safety and security;

(E) cargo packaging and handling;

(F) hazmat release consequences; and

(G) materials and equipment testing.

* * * * * * *

§ 5121. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary may investigate, conduct tests, make reports, issue subpenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. Except as provided in subsections (c) and (d), after notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed, or an order, special permit, or approval issued, under this chapter.

(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

(1) maintain records and property, make reports, and provide information the Secretary by regulation or order requires; and

(2) make the records, property, reports, and information available for inspection when the Secretary undertakes an investigation or makes a request.

(c) INSPECTIONS AND INVESTIGATIONS.—

(1) IN GENERAL.—A designated officer, employee, or agent of the Secretary—

(A) may inspect and investigate, at a reasonable time and in a reasonable manner, records and property relating to a function described in section 5103(b)(1);

(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;

(C) may remove from transportation a package or related packages in a shipment offered for or in transportation for which—

(i) such officer, employee, or agent has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

(ii) such officer, employee, or agent contemporaneously documents such belief in accordance with procedures set forth in guidance or regulations prescribed under subsection (e);

(D) may gather information from the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package, to ascertain the nature and hazards of the contents of the package;

(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;

(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 to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

(i) his or her decision to exercise his or her authority under paragraph (1);

(ii) any findings made; and

(iii) any actions being taken as a result of a finding of noncompliance.

(2) DISPLAY OF CREDENTIALS.—An officer, employee, or agent acting under this subsection shall display proper credentials, in person or in writing, when requested.

(3) SAFE RESUMPTION OF TRANSPORTATION.—In instances when, as a result of an inspection or investigation under this subsection, an imminent hazard is not found to exist, the Secretary, in accordance with procedures set forth in regulations prescribed under subsection (e), shall assist—

(A) in the safe and prompt resumption of transportation of the package concerned; or

(B) in any case in which the hazardous material being transported is perishable, in the safe and expeditious resumption of transportation of the perishable hazardous material.

(d) EMERGENCY ORDERS.—

(1) IN GENERAL.—If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

(2) WRITTEN ORDERS.—The action of the Secretary under paragraph (1) shall be in a written emergency order that—

(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

(C) describes the standards and procedures for obtaining relief from the order.

(3) OPPORTUNITY FOR REVIEW.—After taking action under paragraph (1), the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the date of issuance of the order for the action.

(4) EXPIRATION OF EFFECTIVENESS OF ORDER.—If a petition for review of an action is filed under paragraph (3) and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

(5) OUT-OF-SERVICE ORDER DEFINED.—In this subsection, the term "out-of-service order" means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.

(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.

(3) MATTERS TO BE ADDRESSED.—The regulations issued under this subsection shall address—

(A) the safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

(B) the means by which—

(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

(ii) noncompliant packages that do not present a hazard are moved to their final destination;

(C) appropriate training and equipment for inspectors; and

(D) the proper closure of packaging in accordance with the hazardous material regulations.

(f) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—(1) The Secretary shall—

(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk related to the transportation of hazardous material and material alleged to be hazardous;

(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, other interested individuals, and officers and employees of the Government and State and local governments on meeting an emergency related to the transportation of hazardous material; and

(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

(2) Paragraph (1) of this subsection does not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

(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) to expand risk assessment and emergency response capabilities with respect to the safety and security of transportation of hazardous material;

(2) to enhance emergency communications capacity as determined necessary by the Secretary, including the use of integrated, interoperable emergency communications technologies where appropriate;

(3) to conduct research, development, demonstration, risk assessment, and emergency response planning and training activities; or

(4) to otherwise carry out this chapter.

(h) 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⟧ *make available to the public on the Department of Transportation's Internet Web site* a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years. The report shall include—

(1) a statistical compilation of accidents and casualties related to the transportation of hazardous material;

(2) a list and summary of applicable Government regulations, criteria, orders, and special permits;

(3) a summary of the basis for each special permit;

(4) an evaluation of the effectiveness of enforcement activities relating to a function regulated by the Secretary under section 5103(b)(1) and the degree of voluntary compliance with regulations;

(5) a summary of outstanding problems in carrying out this chapter in order of priority; and

(6) recommendations for appropriate legislation.

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[§ 5128. Authorization of appropriations

[(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

[(1) $42,338,000 for fiscal year 2013;

[(2) $42,762,000 for fiscal year 2014;

[(3) $42,762,000 for fiscal year 2015; and

[(4) $3,388,246 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—

[(1) FISCAL YEARS 2013 THROUGH 2015.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2013 through 2015—

[(A) $188,000 to carry out section 5115;

[(B) $21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than $13,650,000 shall be available to carry out section 5116(b);

[(C) $150,000 to carry out section 5116(f);

[(D) $625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

[(E) $1,000,000 to carry out section 5116(j).

[(2) FISCAL YEAR 2016.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend for the period beginning on October 1, 2015, and ending on October 29, 2015—

[(A) $14,896 to carry out section 5115;

[(B) $1,727,322 to carry out subsections (a) and (b) of section 5116, of which not less than $1,081,557 shall be available to carry out section 5116(b);

[(C) $11,885 to carry out section 5116(f);

[(D) $49,522 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

[(E) $79,235 to carry out section 5116(j).

[(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend $4,000,000 for each of fiscal years 2013 through 2015 and $316,940 for the period beginning on October 1, 2015, and ending on October 29, 2015, to carry out section 5107(e).

[(d) CREDITS TO APPROPRIATIONS.—

[(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts 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.

[(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.]

§ 5128. Authorization of appropriations

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

(1) $53,000,000 for fiscal year 2016;

(2) $55,000,000 for fiscal year 2017;

(3) $57,000,000 for fiscal year 2018;

(4) $58,000,000 for fiscal year 2019;

(5) $60,000,000 for fiscal year 2020; and

(6) $62,000,000 for fiscal year 2021.

(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(h), the Secretary may expend, for each of fiscal years 2016 through 2021—

(1) $21,988,000 to carry out section 5116(a);

(2) $150,000 to carry out section 5116(e);

(3) $625,000 to publish and distribute the Emergency Response Guidebook under section 5116(h)(3); and

(4) $1,000,000 to carry out section 5116(i).

(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(h), the Secretary may expend $5,000,000 for each of fiscal years 2016 through 2021 to carry out section 5107(e).

(d) CREDITS TO APPROPRIATIONS.—

(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, Indian tribe, authority, or entity.

(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.

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CHAPTER 53—PUBLIC TRANSPORTATION

Sec.
5301. Policies and purposes.

* * * * * * *

[5312. Research, development, demonstration, and deployment projects.
[5313. Transit cooperative research program.
[5314. Technical assistance and standards development.]
5312. Public transportation innovation.
5314. Technical assistance and workforce development.

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[5322. Human resources and training.]

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[5339. Bus and bus facilities formula grants.]
5339. Bus and bus facility grants.

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§ 5302. Definitions

Except as otherwise specifically provided, in this chapter the following definitions apply:

(1) ASSOCIATED TRANSIT IMPROVEMENT.—The term "associated transit improvement" 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) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

(B) bus shelters;

(C) [landscaping and] streetscaping, including benches, trash receptacles, and street lights;

(D) pedestrian access and walkways;

(E) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

(F) signage; or

(G) enhanced access for persons with disabilities to public transportation.

(2) BUS RAPID TRANSIT SYSTEM.—The term "bus rapid transit system" means a bus transit system—

(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

(B) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

(i) defined stations;

(ii) traffic signal priority for public transportation vehicles;

(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

(3) CAPITAL PROJECT.—The term "capital project" means a project for—

(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus;

(C) remanufacturing a bus;

(D) overhauling rail rolling stock;

(E) preventive maintenance;

(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary

prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

(G) a joint development improvement that—

(i) enhances economic development or incorporates private investment, such as commercial and residential development;

(ii)(I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

(II) establishes new or enhanced coordination between public transportation and other transportation;

(iii) provides a fair share of revenue that will be used for public transportation;

(iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means;

(v) may include—

(I) property acquisition;

(II) demolition of existing structures;

(III) site preparation;

(IV) utilities;

(V) building foundations;

(VI) walkways;

(VII) pedestrian and bicycle access to a public transportation facility;

(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

(IX) renovation and improvement of historic transportation facilities;

(X) open space;

(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

(XII) facilities that incorporate community services such as daycare or health care;

(XIII) a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and

(XIV) construction of space for commercial uses; and

(vi) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation;

(H) the introduction of new technology, through innovative and improved products, into public transportation;

(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 of such recipient's annual formula apportionment under sections 5307 and 5311;

(J) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

(K) mobility management—

(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but (ii) excluding operating public transportation services; or

(L) associated capital maintenance, including—

(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

(4) DESIGNATED RECIPIENT.—The term "designated recipient" means—

(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

(B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

(5) DISABILITY.—The term "disability" has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(6) EMERGENCY REGULATION.—The term "emergency regulation" means a regulation—

(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

(i) would injure seriously an important public interest;

(ii) would frustrate substantially legislative policy and intent; or

(iii) would damage seriously a person or class without serving an important public interest.

(7) FIXED GUIDEWAY.—The term "fixed guideway" means a public transportation facility—

(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

(B) using rail;

(C) using a fixed catenary system;

(D) for a passenger ferry system; or

(E) for a bus rapid transit system.

(8) GOVERNOR.—The term "Governor"—

(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

(B) includes the designee of the Governor.

(9) JOB ACCESS AND REVERSE COMMUTE PROJECT.—

(A) IN GENERAL.—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.

(B) DEFINITIONS.—In this paragraph:

(i) 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 Service Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

(ii) 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 section 5307 or 5311.

(10) LOCAL GOVERNMENTAL AUTHORITY.—The term "local governmental authority" includes—

(A) a political subdivision of a State;

(B) an authority of at least 1 State or political subdivision of a State;

(C) an Indian tribe; and

(D) a public corporation, board, or commission established under the laws of a State.

(11) LOW-INCOME INDIVIDUAL.—The term "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.

(12) NET PROJECT COST.—The term "net project cost" means the part of a project that reasonably cannot be financed from revenues.

(13) NEW BUS MODEL.—The term "new bus model" means a bus model (including a model using alternative fuel)—

(A) that has not been used in public transportation in the United States before the date of production of the model; or

(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

(14) PUBLIC TRANSPORTATION.—The term "public transportation"—

(A) means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and

(B) does not include—

(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

(ii) intercity bus service;

(iii) charter bus service;

(iv) school bus service;

(v) sightseeing service;

(vi) courtesy shuttle service for patrons of one or more specific establishments; or

(vii) intra-terminal or intra-facility shuttle services.

(15) REGULATION.—The term "regulation" means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

(16) 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.

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

(18) SENIOR.—The term "senior" means an individual who is 65 years of age or older.

(19) 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.

(20) STATE OF GOOD REPAIR.—The term "state of good repair" has the meaning given that term by the Secretary, by rule, under section 5326(b).

(21) TRANSIT.—The term "transit" means public transportation.

(22) 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.

(23) 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.

(24) VALUE CAPTURE.—The term "value capture" means recovering the increased property value to property located near public transportation resulting from investments in public transportation.

(25) BASE-MODEL BUS.—The term "base-model bus" means a heavy-duty public transportation bus manufactured to meet, but not exceed, transit-specific minimum performance criteria developed by the Secretary.

§ 5303. Metropolitan transportation planning

(a) POLICY.—It is in the national interest—

(1) to 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) to 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 established as a result of the designation process under 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) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term "regional transportation planning organization" means a policy board of an organization established as the result of a designation under section 5304(l).

(6) TIP.—The term "TIP" means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(7) URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as determined 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 through a performance-driven, outcome-based approach to planning for metropolitan 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], *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 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 determined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

(C) appropriate State officials.

(3) REPRESENTATION.—

(A) IN GENERAL.—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

(B) PUBLIC TRANSPORTATION REPRESENTATIVE.—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).

[(3)] *(4)* 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—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

[(4)] *(5)* 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)] *paragraph (6)*.

[(5)] *(6)* REDESIGNATION PROCEDURES.—

(A) IN GENERAL.—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 determined by the Bureau of the Census) as appropriate to carry out this section.

(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

[(6)] *(7)* 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.—

(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), 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.

(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in [subsection (d)(5)] *subsection (d)(6)*.

(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 (42 U.S.C. 7401 et seq.) 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 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.

(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 (42 U.S.C. 7401 et seq.), 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 under this chapter or title 23, 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.—

(A) IN GENERAL.—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, *tourism, natural disaster risk reduction,* environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

(B) REQUIREMENTS.—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—

(i) recipients of assistance under this chapter;

(ii) 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

(iii) 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[.]*; and*

(I) improve the resilience and reliability of the transportation system.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed by recipients of assistance under this chapter, required as part of a performance-based program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) 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) REQUIREMENTS.—

(A) 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.

(B) FREQUENCY.—

(i) IN GENERAL.—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:

(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).

(ii) OTHER AREAS.—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.—

(i) IN GENERAL.—An identification of transportation facilities (including major roadways, [transit] *public transportation facilities, intercity bus facilities*, multimodal and intermodal facilities, nonmotorized transportation 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.

(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with re-

spect to the performance targets described in subsection (h)(2), including—

(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

(D) 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.

(E) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted 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 plan; and

(III) recommends any additional financing strategies for needed projects and programs.

(ii) INCLUSIONS.—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.

(iii) COOPERATIVE DEVELOPMENT.—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.

(F) 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.

(G) 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.

(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), 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 that Act.

(4) OPTIONAL SCENARIO DEVELOPMENT.—

(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

(i) potential regional investment strategies for the planning horizon;

(ii) assumed distribution of population and employment;

(iii) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

(iv) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

(v) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

(vi) estimated costs and potential revenues available to support each scenario.

(C) METRICS.—In addition to the performance measures identified in section 150(c) of title 23, metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

(5) 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.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, *public ports,* freight shippers, providers of freight transportation

services, private providers of transportation *(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)*, 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).

(7) 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.

(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding [paragraph (2)(C)] *paragraph (2)(E)*, 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)] *paragraph (2)(E)*.

(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 metropolitan planning area that—

(i) contains projects consistent with the current metropolitan transportation plan;

(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

(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—

(i) updated at least once every 4 years; and

(ii) 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.

(D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

(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 1 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 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.—

(i) IN GENERAL.—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.

(ii) REQUIREMENT.—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.—

(A) IN GENERAL.—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 *(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects,* and operational management strategies.

(B) SCHEDULE.—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.

(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization with a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve

transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and non-profit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.

(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) 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 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) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection.

(2) REPORT.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area [of less than 200,000] *with a population of 200,000 or less* and their ability to carry out the requirements of this section.

(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(m) 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 (42 U.S.C. 7401 et seq.).

(n) 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 (42 U.S.C. 7401 et seq.), 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).

(o) 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.

(p) FUNDING.—**[**Funds set aside under section 104(f)**]** *Funds apportioned under section 104(b)(5)* of title 23 or section 5305(g) shall be available to carry out this section.

(q) 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 that 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 that Act.

§ 5304. Statewide and nonmetropolitan transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 5303, 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.

(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**]***, 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 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 ap-

propriate, 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.—Two or more States may 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 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**[**.**]***; and*

(I) improve the resilience and reliability of the transportation system.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a

performance-based approach to transportation decision-making to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the State.

(II) COORDINATION.—Selection of performance targets by a State shall be coordinated with the relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—In [urbanized] areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, selection of performance targets by a State shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph, in other State transportation plans and transportation processes, as well as any plans developed pursuant to title 23 by providers of public transportation in [urbanized] areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program.

(D) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be considered by a State when developing policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration the factors specified in paragraphs (1) and (2) shall not be subject to review 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, a statewide 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, at a minimum—

(1) with respect to nonmetropolitan areas, cooperate with affected local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l);

(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) consider 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.—

(i) IN GENERAL.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in cooperation with affected nonmetropolitan officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l).

(ii) ROLE OF SECRETARY.—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 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 to—

(i) nonmetropolitan local elected officials, or, if applicable, through regional transportation planning organizations described in subsection (l), an opportunity to participate in accordance with subparagraph (B)(i); and

(ii) citizens, affected public agencies, representatives of public transportation employees, *public ports,* freight shippers, private providers of transportation *(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)*, 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 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) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);

(ii) hold any public meetings at convenient and accessible locations and times;

(iii) employ visualization techniques to describe plans; and

(iv) 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) a financial plan that—

(i) demonstrates how the adopted statewide 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 plan; and

(iii) recommends any additional financing strategies for needed projects and programs; and

(B) 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) PERFORMANCE-BASED APPROACH.—The statewide transportation plan should include—

(A) a description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (d)(2); and

(B) a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2), including progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

(8) 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.

(9) 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.—

(A) IN GENERAL.—Each State shall develop a statewide transportation improvement program for all areas of the State.

(B) DURATION AND UPDATING OF PROGRAM.—Each program developed under subparagraph (A) shall cover a period of 4 years and shall be updated every 4 years or more frequently if the Governor of the State 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.—

(i) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed in cooperation with affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l).

(ii) ROLE OF SECRETARY.—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) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

(5) 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.—

(i) IN GENERAL.—An annual listing of projects for which funds have been obligated for 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.

(ii) FUNDING CATEGORIES.—The listing described in clause (i) 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 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 (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as a nonattainment area for ozone, particulate matter, or carbon monoxide under part D of title I of that Act (42 U.S.C. 7501 et seq.).

(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.—

(i) IN GENERAL.—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.

(ii) ADDITIONAL PROJECTS.—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.

(6) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

(A) IN GENERAL.—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 under sections 5310 and 5311 of this chapter), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l).

(B) OTHER PROJECTS.—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 under sections 5310 and 5311 of this chapter 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.

(7) 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.

(8) 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.

(9) 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) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

(A) The extent to which the State is making progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed appropriate performance targets.

(B) The extent to which the State has made transportation investments that are efficient and cost-effective.

(C) The extent to which the State—

(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

(ii) provides reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

(2) REPORT.—

(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

(ii) the effectiveness of the performance-based planning process of each State.

(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

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

(k) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.

(l) 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 transportation improvement programs, 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 multijurisdictional organization of nonmetropolitan local officials or their designees who volunteer for such organization and representatives of local transportation systems who volunteer for such organization.

(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, 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, metropolitan planning organizations, 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.

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§ 5307. Urbanized area formula grants

(a) GENERAL AUTHORITY.—

(1) RECIPIENT DEFINED.—In this section, the term "recipient" means a designated recipient, State, or local governmental authority that receives a grant under this section directly from the Government.

[(1)**]** *(2)* GRANTS.—The Secretary may make grants under this section for—

(A) capital projects;

(B) planning;

(C) job access and reverse commute projects; and

(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census.

[(2)**]** *(3)* SPECIAL RULE.—The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not

fewer than 200,000 individuals, as determined by the Bureau of the Census—

(A) for public transportation systems that operate 75 or fewer buses in fixed route service *or general public demand response service* during peak service hours, in an amount not to exceed 75 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

(B) for public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses in fixed route service *or general public demand response service* during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

(4) EXCEPTION TO THE SPECIAL RULE.—Notwithstanding paragraph (3), if a public transportation system described in such paragraph executes a written agreement with 1 or more other public transportation systems to allocate funds under this subsection, other than by measuring vehicle revenue hours, each of the public transportation systems to the agreement may follow the terms of such agreement without regard to the percentages or the measured vehicle revenue hours referred to in such paragraph.

(b) PROGRAM OF PROJECTS.—Each recipient of a grant shall—

(1) make available to the public information on amounts available to the recipient under this section;

(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

(4) provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed program of projects;

(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

(7) make the final program of projects available to the public.

(c) 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 (b) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a Governor under this section)—

(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

(B) has or will have satisfactory continuing control over the use of equipment and facilities;

(C) will maintain equipment and facilities;

(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

(i) senior;

(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

(iii) 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. and 1395 et seq.);

(E) in carrying out a procurement under this section, will comply with sections 5323 and 5325;

(F) has complied with subsection (b) of this section;

(G) has available and will provide the required amounts as provided by subsection (d) of this section;

(H) will comply with sections 5303 and 5304;

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

(ii) has decided that the expenditure for security projects is not necessary;

(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

(i) will expend not less than [1 percent] *one-half of 1 percent* of the amount the recipient receives each fiscal year under this section for associated transit improvements, as defined in section 5302; and

(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and

(L) will comply with section 5329(d); and

(2) the Secretary accepts the certification.

(d) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project costs shall be provided—

(A) in cash from non-Government sources other than revenues from providing public transportation services;

(B) from revenues from the sale of advertising and concessions;

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

(D) 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

(E) from amounts received under a service agreement with a State or local social service agency or private social service organization.

(4) USE OF CERTAIN FUNDS.—For purposes of subparagraphs (D) and (E) of paragraph (3), 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.

(e) UNDERTAKING PROJECTS IN ADVANCE.—

(1) PAYMENT.—The Secretary may pay the Government share of the net project cost to a State or local governmental authority that carries out any part of a project eligible under subparagraph (A) or (B) of subsection (a)(1) without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out any part of the project, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) APPROVAL OF APPLICATION.—The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

(3) 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 recipient to the extent proceeds of the bonds are expended in carrying out the part.

(B) LIMITATION ON THE AMOUNT OF INTEREST.—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.

(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 financing terms.

(f) REVIEWS, AUDITS, AND EVALUATIONS.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.—At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

(i) the activities proposed under subsection (c) of this section in a timely and effective way and can continue to do so; and

(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

(2) TRIENNIAL REVIEW.—At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (c) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

(g) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

(h) PASSENGER FERRY GRANTS.—

(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (a).

(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

* * * * * * *

§ 5309. Fixed guideway capital investment grants

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

(1) APPLICANT.—The term "applicant" means a State or local governmental authority that applies for a grant under this section.

(2) CORE CAPACITY IMPROVEMENT PROJECT.—The term "core capacity improvement project" means a substantial corridor-based capital investment in an existing fixed guideway system that increases the capacity of a corridor by not less than 10 percent. The term does not include project elements designed to maintain a state of good repair of the existing fixed guideway system.

(3) CORRIDOR-BASED BUS RAPID TRANSIT PROJECT.—The term "corridor-based bus rapid transit project" means a small start project utilizing buses in which the project represents a substantial investment in a defined corridor as demonstrated by features that emulate the services provided by rail fixed guideway public transportation systems, including defined stations; traffic signal priority for public transportation vehicles; short headway bidirectional services for a substantial part of weekdays and weekend days; and any other features the Secretary may determine support a long-term corridor investment, but the majority of which does not operate in a separated right-of-way dedicated for public transportation use during peak periods.

(4) FIXED GUIDEWAY BUS RAPID TRANSIT PROJECT.—The term "fixed guideway bus rapid transit project" means a bus capital project—

(A) in which the majority of the project operates in a separated right-of-way dedicated for public transportation use during peak periods;

(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

(C) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

(i) defined stations;

(ii) traffic signal priority for public transportation vehicles;

(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

(5) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term "new fixed guideway capital project" means—

(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

(B) a fixed guideway bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

(6) PROGRAM OF INTERRELATED PROJECTS.—The term "program of interrelated projects" means the simultaneous development of—

(A) 2 or more new fixed guideway capital projects*, small start projects,* or core capacity improvement projects; or

[(B) 1 or more new fixed guideway capital projects and 1 or more core capacity improvement projects.]

(B) 2 or more projects that are any combination of new fixed guideway capital projects, small start projects, and core capacity improvement projects.

(7) SMALL START PROJECT.—The term "small start project" means a new fixed guideway capital project or corridor-based bus rapid transit 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 State and local governmental authorities to assist in financing—

(1) new fixed guideway capital projects or small start projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock associated with corridor improvements increasing capacity, construction of infill stations, and such other capacity improvement projects as the Secretary determines are appropriate to increase the capacity of an existing fixed guideway system corridor by at least 10 percent. Core capacity improvement projects do not include elements to improve general station facilities or parking, or acquisition of rolling stock alone.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects, small start projects, or core capacity improvement projects, if the Secretary determines that—

(A) the project is part of an approved transportation plan required under sections 5303 and 5304; and

(B) the applicant has, or will have—

(i) the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of the project;

(ii) satisfactory continuing control over the use of the equipment or facilities; and

(iii) the technical and financial capacity to maintain new and existing equipment and facilities.

(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(c)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new fixed guideway capital project, or core capacity improvement project, if—

(A) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for purposes of this section.

(d) NEW FIXED GUIDEWAY GRANTS.—

(1) PROJECT DEVELOPMENT PHASE.—

(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new fixed guideway capital project shall enter into the project development phase when—

(i) the applicant—

(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

(ii) the Secretary—

(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient; and

(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the new fixed guideway capital project is entering the project development phase.

(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote

public transportation, and local financial commitment under this subsection.

(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

(I) a reasonable plan for completing the activities required under this paragraph; and

(II) an estimated time period within which the applicant will complete such activities.

(2) ENGINEERING PHASE.—

(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) is adopted into the metropolitan transportation plan required under section 5303;

(iii) is justified based on a comprehensive review of the project's mobility improvements, the project's environmental benefits, congestion relief associated with the project, economic development effects associated with the project, policies and land use patterns of the project that support public transportation, and the project's cost- effectiveness as measured by cost per rider;

(iv) is supported by policies and land use patterns that promote public transportation, including plans for future land use and rezoning, and economic development around public transportation stations; and

(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient; and

(ii) population density and current public transportation ridership in the transportation corridor.

(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

(1) PROJECT DEVELOPMENT PHASE.—

(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

(i) the applicant—

(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

(ii) the Secretary—

(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient; and

(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the core capacity improvement project is entering the project development phase.

(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

(I) a reasonable plan for completing the activities required under this paragraph; and

(II) an estimated time period within which the applicant will complete such activities.

(2) ENGINEERING PHASE.—

(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as dem-

onstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

(ii) is adopted into the metropolitan transportation plan required under section 5303;

(iii) is in a corridor that is—

(I) at or over capacity; or

(II) projected to be at or over capacity within the next 5 years;

(iv) is justified based on a comprehensive review of the project's mobility improvements, the project's environmental benefits, congestion relief associated with the project, economic development effects associated with the project, the capacity needs of the corridor, and the project's cost-effectiveness as measured by cost per rider; and

(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and 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) whether the project will increase capacity at least 10 percent in a corridor;

(iii) whether the project will improve interconnectivity among existing systems; and

(iv) whether the project will improve environmental outcomes.

(f) FINANCING SOURCES.—

(1) REQUIREMENTS.—In determining whether a project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall require that—

(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

(B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

(C) local resources are available to recapitalize, maintain, and operate the overall existing and 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 project.

(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—

(A) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;

(B) existing grant commitments;

(C) the degree to which financing sources are dedicated to the proposed purposes;

(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose;

(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project; and

(F) 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.

(g) PROJECT ADVANCEMENT AND RATINGS.—

(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity improvement project proposed to be carried out using a grant under this section may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

(A) the project meets the applicable requirements under this section; and

(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

(2) RATINGS.—

(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), the policies and land use patterns that support public transportation, and the degree of local financial commitment; and

(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the degree of local financial commitment.

(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable; and

(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established

under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i).

(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a "medium" rating in order to advance the project from one phase to another.

(3) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—

(A) the share of the cost of the project to be provided under this section does not exceed—

(i) $100,000,000; or

(ii) 50 percent of the total cost of the project;

(B) the applicant requests the use of the warrants;

(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

(B) each time the Secretary makes significant changes to the process and criteria, but not less frequently than once every 2 years.

(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.

(7) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of the Federal Public Transportation Act of 2012.

(h) SMALL START PROJECTS.—

(1) IN GENERAL.—A small start project shall be subject to the requirements of this subsection.

(2) PROJECT DEVELOPMENT PHASE.—

(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new small starts project shall enter into the project development phase when—

(i) the applicant—

(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

(ii) the Secretary—

(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient; and

(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the small starts project is entering the project development phase.

(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

(3) 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 metropolitan transportation plan required under section 5303;

(B) is based on the results of an analysis of the benefits of the project as set forth in paragraph (4); and

(C) is supported by an acceptable degree of local financial commitment.

(4) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a small start project under paragraph (3)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative): mobility improvements, environmental benefits, congestion relief, economic development effects associated with the project, policies and land use patterns that support public transportation and cost-effectiveness as measured by cost per rider.

(5) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (3)(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.

(6) RATINGS.—[In carrying out]

(A) IN GENERAL.—In carrying out paragraphs (4) and (5) 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.

(B) OPTIONAL EARLY RATING.—At the request of the project sponsor, the Secretary shall evaluate and rate the project in accordance with paragraphs (4) and (5) and subparagraph (A) of this paragraph upon completion of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) 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 (k)(2).

(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.

(i) PROGRAMS OF INTERRELATED PROJECTS.—

(1) PROJECT DEVELOPMENT PHASE.—A federally funded project in a program of interrelated projects shall advance through project development as provided in [subsection (d) or (e)] *subsection (d), (e), or (h)*, as applicable.

(2) ENGINEERING PHASE.—A federally funded *new fixed guideway capital project or core capacity improvement* project in a program of interrelated projects may advance into the engineering phase upon completion of activities required under

the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that—

(A) the project is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

(B) the project is adopted into the metropolitan transportation plan required under section 5303;

(C) the program of interrelated projects involves projects that have a logical connectivity to one another;

[(D) the program of interrelated projects, when evaluated as a whole, meets the requirements of subsection (d)(2) or (e)(2), as applicable;]

(D) the program of interrelated projects, when evaluated as a whole—

(i) meets the requirements of subsection (d)(2), subsection (e)(2), or paragraphs (3) and (4) of subsection (h), as applicable, if the program is comprised entirely of—

(I) new fixed guideway capital projects;

(II) core capacity improvement projects; or

(III) small start projects; or

(ii) meets the requirements of subsection (d)(2) if the program is comprised of any combination of new fixed guideway projects, small start projects, and core capacity improvement projects.

(E) the program of interrelated projects is supported by a program implementation plan demonstrating that construction will begin on each of the projects in the program of interrelated projects within a reasonable time frame; and

(F) the program of interrelated projects is supported by an acceptable degree of local financial commitment, as described in subsection (f).

(3) PROJECT ADVANCEMENT AND RATINGS.—

[(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements.]

(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance—

(i) in the case of a small start project, from the project development phase to the construction phase unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that

the program will continue to meet such requirements; or

(ii) in the case of a new fixed guideway capital project or a core capacity improvement project, from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements.

(B) RATINGS.—

(i) OVERALL RATING.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate a program of interrelated projects on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the criteria described in paragraph (2).

(ii) INDIVIDUAL RATING FOR EACH CRITERION.—In rating a program of interrelated projects, the Secretary shall provide, in addition to the overall program rating, individual ratings for each of the criteria described in paragraph (2) and shall give comparable, but not necessarily equal, numerical weight to each such criterion in calculating the overall program rating.

(iii) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single criterion described in paragraph (2) meet or exceed a "medium" rating in order to advance the program of interrelated projects from one phase to another.

(4) ANNUAL REVIEW.—

(A) REVIEW REQUIRED.—The Secretary shall annually review the program implementation plan required under paragraph (2)(E) to determine whether the program of interrelated projects is adhering to its schedule.

(B) EXTENSION OF TIME.—If a program of interrelated projects is not adhering to its schedule, the Secretary may, upon the request of the applicant, grant an extension of time if the applicant submits a reasonable plan that includes—

(i) evidence of continued adequate funding; and

(ii) an estimated time frame for completing the program of interrelated projects.

(C) SATISFACTORY PROGRESS REQUIRED.—If the Secretary determines that a program of interrelated projects is not making satisfactory progress, no Federal funds shall be provided for a project within the program of interrelated projects.

(5) FAILURE TO CARRY OUT PROGRAM OF INTERRELATED PROJECTS.—

(A) REPAYMENT REQUIRED.—If an applicant does not carry out the program of interrelated projects within a reasonable time, for reasons within the control of the applicant, the applicant shall repay all Federal funds provided

for the program, and any reasonable interest and penalty charges that the Secretary may establish.

(B) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

(6) NON-FEDERAL FUNDS.—Any non-Federal funds committed to a project in a program of interrelated projects may be used to meet a non-Government share requirement for any other project in the program of interrelated projects, if the Government share of the cost of each project within the program of interrelated projects does not exceed 80 percent.

(7) PRIORITY.—In making grants under this section, the Secretary may give priority to programs of interrelated projects for which the non-Government share of the cost of the projects included in the programs of interrelated projects exceeds the non-Government share required under subsection (l).

(8) NON-GOVERNMENT PROJECTS.—Including a project not financed by the Government in a program of interrelated projects does not impose Government requirements that would not otherwise apply to the project.

(j) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, approved entry into final design, entered into a full funding grant agreement, or entered into a project construction grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

(k) 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 fixed guideway capital project or core capacity improvement 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. When a letter is issued for a capital project under this section, 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), 1501, and 1502(a) of title 31 or an administrative commitment.

(2) FULL FUNDING GRANT AGREEMENTS.—

(A) IN GENERAL.—A new fixed guideway capital project or core capacity improvement 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 subsection (d), (e), or (i), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement

project that has been rated as high, medium-high, or medium, in accordance with subsection (g)(2)(A) or (i)(3)(B), as applicable.

(C) TERMS.—A full funding grant agreement shall—

(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

(ii) establish the maximum amount of Federal financial assistance for the project;

(iii) include the period of time for completing the project, even if that period extends 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.

(D) 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 new fixed guideway capital project shall be sufficient to complete at least an operable segment.

(E) 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 or core capacity improvement project on public transportation services and public transportation ridership;

(II) evaluates the consistency of predicted and actual project characteristics and performance; and

(III) identifies reasons for differences between predicted and actual outcomes.

(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant 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 or core capacity improvement 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) collection of data on the current public transportation system regarding public transportation 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 public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as- built scope, capital, and financing costs of the project; and

(dd) analysis of the consistency of predicted project characteristics with actual outcomes.

(F) 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 under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capacity improvement project. Collection of this 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 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.—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 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) CONTINGENT COMMITMENT.—An early systems work agreement 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.

(iii) PERIOD COVERED.—An early systems 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.

(iv) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the early systems 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.

(v) 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 Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the early systems work agreement.

(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

(4) LIMITATION ON AMOUNTS.—

(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

(5) NOTIFICATION TO CONGRESS.—At least 30 days before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the

Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives 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.

(l) GOVERNMENT SHARE OF NET CAPITAL 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. A grant for a fixed guideway project or small start project shall not exceed 80 percent of the net capital project cost. A grant for a core capacity project shall not exceed 80 percent of the net capital project cost of the incremental cost of increasing the capacity in the corridor.]

(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. A grant for a new fixed guideway project shall not exceed 50 percent of the net capital project cost. A grant for a core capacity project shall not exceed 80 percent of the net capital project cost of the incremental cost of increasing the capacity in the corridor. A grant for a small start project shall not exceed 80 percent.

(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net capital project cost of a new fixed guideway capital project or core capacity improvement project evaluated under subsection (d), (e), or (i) 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 capital project cost of the project is not more than 10 percent higher than the net capital project cost estimated at the time the project was approved for advancement into the engineering phase; 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 the engineering phase.

[(4) REMAINDER OF NET CAPITAL PROJECT COST.—The remainder of the net capital project cost shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.]

(4) REMAINING COSTS.—The remainder of the net project costs shall be provided—

(A) in cash from non-Government sources other than revenues from providing public transportation services;

(B) from revenues from the sale of advertising and concessions;

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; or

(D) 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.

(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section 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 provided by 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 shall not apply to projects for which the Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

(8) SPECIAL RULE FOR FIXED GUIDEWAY BUS RAPID TRANSIT PROJECTS.—For up to three fixed-guideway bus rapid transit projects each fiscal year the Secretary shall—

(A) establish a Government share of at least 80 percent; and

(B) not lower the project's rating for degree of local financial commitment for purposes of subsections (d)(2)(A)(v) or (h)(3)(C) as a result of the Government share specified in this paragraph.

(m) UNDERTAKING PROJECTS IN ADVANCE.—

(1) IN GENERAL.—The Secretary may pay the Government 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 the State or local governmental authority carries 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 financing terms.

[(n) AVAILABILITY OF AMOUNTS.—

[(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 5 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 5-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.]

[(o)] *(n)* REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT 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 Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

(B) evaluations and ratings, as required under subsections (d), (e), and (i), for each such project that is in project development, engineering, or has received a full funding grant agreement; 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) REPORTS ON BEFORE AND AFTER STUDIES.—Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a report containing a summary of the results of any studies conducted under subsection (k)(2)(E).

(3) BIENNIAL GAO REVIEW.—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 core capacity improvement 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.

(o) SPECIAL RULE.—For the purposes of calculating the cost effectiveness of a project described in subsection (d) or (e), the Secretary

shall not reduce or eliminate the capital costs of art and landscaping elements from the annualized capital cost calculation.

§ 5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities

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

(1) RECIPIENT.—The term "recipient" means a designated recipient or a State that receives a grant under this section directly.

(2) SUBRECIPIENT.—The term "subrecipient" means a State or local governmental authority, a private nonprofit organization, or an operator of public transportation 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 recipients for—

(A) public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(C) public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit; and

(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

(2) LIMITATIONS FOR CAPITAL PROJECTS.—

(A) AMOUNT AVAILABLE.—The amount available for capital projects under paragraph (1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

(B) ALLOCATION TO SUBRECIPIENTS.—A recipient of a grant under paragraph (1)(A) may allocate the amounts provided under the grant to—

(i) a private nonprofit organization; or

(ii) a State or local governmental authority that—

(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

(II) certifies that there are no private nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

(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.

(4) ELIGIBLE CAPITAL EXPENSES.—The acquisition of public transportation services is an eligible capital expense under this section.

(5) COORDINATION.—

(A) DEPARTMENT OF TRANSPORTATION.—To the maximum extent feasible, the Secretary shall coordinate activi-

ties under this section with related activities under other Federal departments and agencies.

(B) OTHER FEDERAL AGENCIES AND NONPROFIT ORGANIZATIONS.—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

(ii) participate in the planning for the transportation services described in clause (i).

(6) PROGRAM OF PROJECTS.—

(A) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

(B) SUBMISSION.—A recipient shall annually submit a program of projects to the Secretary.

(C) ASSURANCE.—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

(7) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—A public transportation service provider that receives 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.

(c) APPORTIONMENT AND TRANSFERS.—

(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

(A) LARGE URBANIZED AREAS.—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

(i) the number of seniors and individuals with disabilities in each such urbanized area; bears to

(ii) the number of seniors and individuals with disabilities in all such urbanized areas.

(B) SMALL URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer

than 200,000 individuals, as determined by the Bureau of the Census, in all States.

(C) RURAL AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of seniors and individuals with disabilities in rural areas in each State; bears to

(ii) the number of seniors and individuals with disabilities in rural areas in all States.

(2) AREAS SERVED BY PROJECTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B)—

(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving rural areas.

(B) EXCEPTIONS.—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

(i) for a project serving an area other than an area specified in subparagraph (A)(ii) or (A)(iii), 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 area specified in subparagraph (A)(ii) or (A)(iii); or

(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

(C) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

(D) CONSULTATION.—A recipient may transfer an amount under subparagraph (B) only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

(d) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 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 an amount equal to 50 percent of the net operating costs of the project, as determined by the Secretary.

(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

(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 or otherwise made available—

(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

(ii) to carry out the Federal lands highways program under section 204 of title 23.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B)(i), the prohibition under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds for matching requirements shall not apply to Federal or State funds to be used for transportation purposes.

(e) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.

(2) CERTIFICATION REQUIREMENTS.—

(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services.

(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants under this section.

(2) STATEWIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this

section to any other recipient eligible to receive assistance under this chapter, if—

(1) the recipient in possession of the facility or equipment consents to the transfer; and

(2) the facility or equipment will continue to be used as required under this section.

(h) PERFORMANCE MEASURES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives making recommendations on the establishment of performance measures for grants under this section. Such report shall be developed in consultation with national nonprofit organizations that provide technical assistance and advocacy on issues related to transportation services for seniors and individuals with disabilities.

(2) MEASURES.—The performance measures to be considered in the report under paragraph (1) shall require the collection of quantitative and qualitative information, as available, concerning—

(A) modifications to the geographic coverage of transportation service, the quality of transportation service, or service times that increase the availability of transportation services for seniors and individuals with disabilities;

(B) ridership;

(C) accessibility improvements; and

(D) other measures, as the Secretary determines is appropriate.

(i) BEST PRACTICES.—The Secretary shall collect from, review, and disseminate to public transit agencies innovative practices, program models, new service delivery options, findings from activities under subsection (h), and transit cooperative research program reports.

§ 5311. Formula grants for rural areas

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) RECIPIENT.—The term "recipient" means a State or Indian tribe that receives a Federal transit program grant directly from the Government.

(2) SUBRECIPIENT.—The term "subrecipient" means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

(b) GENERAL AUTHORITY.—

(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in rural areas for—

(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activi-

ties that are directed specifically at the needs of rural areas in the State;

(B) public transportation capital projects;

(C) operating costs of equipment and facilities for use in public transportation;

(D) job access and reverse commute projects; and

(E) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

(2) STATE PROGRAM.—

(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in rural areas.

(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section 5338(a)(2)(E) to make grants and contracts for transportation research, technical assistance, training, and related support services in rural areas.

(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 competitively selected projects of a national scope, with the remaining balance provided to the States.

(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

(A) total annual revenue;

(B) sources of revenue;

(C) total annual operating costs;

(D) total annual capital costs;

(E) fleet size and type, and related facilities;

(F) vehicle revenue miles; and

(G) ridership.

(c) APPORTIONMENTS.—

(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(E) to carry out this para-

graph, the following amounts shall be apportioned each fiscal year 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) $5,000,000 for each fiscal year ending before October 1, 2015, and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be distributed on a competitive basis by the Secretary.

(B) $25,000,000 for each fiscal year ending before October 1, 2015, and $1,980,874 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be apportioned as formula grants, as provided in subsection (j).

(2) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

(A) DEFINITIONS.—In this paragraph—

(i) the term "Appalachian region" has the same meaning as in section 14102 of title 40; and

(ii) the term "eligible recipient" means a State that participates in a program established under subtitle IV of title 40.

(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(E) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose eligible under this section, based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code.

(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.

(3) REMAINING AMOUNTS.—

(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(E) that are not apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

(ii) LAND AREA.—

(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause

(i), multiplied by the ratio of the land area in rural areas in that State and divided by the land area in all rural areas in the United States, as shown by the most recent decennial census of population.

(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned under clause (i), multiplied by the ratio of the population of rural areas in that State and divided by the population of all rural areas in the United States, as shown by the most recent decennial census of population.

(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NONURBANIZED AREAS.—

(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in rural areas in that State and divided by the land area in all rural areas in the United States, as shown by the most recent decennial census of population.

(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in rural areas in that State and divided by the vehicle revenue miles in all rural areas in the United States, as determined by national transit database reporting.

(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in rural areas in that State and divided by the number of low-income individuals in all rural areas in the United States, as shown by the Bureau of the Census.

(v) MAXIMUM APPORTIONMENT.—No State shall receive—

(I) more than 5 percent of the amount apportioned under clause (ii); or

(II) more than 5 percent of the amount apportioned under clause (iii).

(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in a rural area.

(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary may allow a State to use not more than 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 a rural 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) planning and marketing for intercity bus transportation;

(B) capital grants for intercity bus facilities;

(C) joint-use facilities;

(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

(g) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—

(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net 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 costs in accordance with the formula under that section.

(2) OPERATING ASSISTANCE.—

(A) IN GENERAL.—Except as provided by 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 equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

(3) REMAINDER.—The remainder of net project costs—

(A) may be provided in cash from non-Government sources other than revenues from providing public transportation services;

(B) may be provided from revenues from the sale of advertising and concessions;

[(A)**]** *(C)* may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or re-

serve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

[(B)] *(D)* 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;

[(C)] *(E)* 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)] *(F)* in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service*, including all operating and capital costs of such service whether or not offset by revenue from such service,* as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under subsection (f), if the private operator agrees in writing to the use of the costs of the private operator for the unsubsidized segment of intercity bus service as an in-kind match.

(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 State 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.

(h) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance 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.

(i) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

(j) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

(1) APPORTIONMENT.—

(A) IN GENERAL.—Of the amounts described in subsection (c)(1)(B)—

(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause

multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands (as defined by the Bureau of the Census) on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe's lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

(B) LIMITATION.—No recipient shall receive more than $300,000 of the amounts apportioned under subparagraph (A)(iii) in a fiscal year.

(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than $300,000 in a fiscal year according to the formula specified in that clause.

(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term "low-income individual" means an individual whose family income is at or below 100 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.

(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities, improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.

[§ 5312. Research, development, demonstration, and deployment projects]

§ 5312. Public transportation innovation

(a) IN GENERAL.—The Secretary shall provide assistance for projects and activities to advance innovative public transportation research and development in accordance with the requirements of this section.

[(a)] *(b)* RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

(2) AGREEMENTS.—In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

(A) departments, agencies, and instrumentalities of the Government, including Federal laboratories;

(B) State and local governmental entities;

(C) providers of public transportation;

(D) private or non-profit organizations;

(E) institutions of higher education; and

(F) technical and community colleges.

(3) APPLICATION.—

(A) IN GENERAL.—To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in paragraph (2) shall submit an application to the Secretary.

(B) FORM AND CONTENTS.—An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

(i) a statement of purpose detailing the need being addressed;

(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and

(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.

[(b)] *(c)* RESEARCH.—

(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in [subsection (a)(2)] *subsection (b)(2)* to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.

(2) PROJECT ELIGIBILITY.—A public transportation research project that receives assistance under paragraph (1) shall focus on—

(A) providing more effective and efficient public transportation service, including services to—

(i) seniors;

(ii) individuals with disabilities; and

(iii) low-income individuals;

(B) mobility management and improvements and travel management systems;

(C) data and communication system advancements;

(D) system capacity, including—

(i) train control;

(ii) capacity improvements; and

(iii) performance management;

(E) capital and operating efficiencies;

(F) planning and forecasting modeling and simulation;

(G) advanced vehicle design;

(H) advancements in vehicle technology;

(I) asset maintenance and repair systems advancement;

(J) construction and project management;

(K) alternative fuels;

(L) the environment and energy efficiency;

(M) safety improvements; or

(N) any other area that the Secretary determines is important to advance the interests of public transportation.

[(c)] *(d)* INNOVATION AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in [subsection (a)(2)] *subsection (b)(2)* to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.

(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project that receives assistance under paragraph (1) shall focus on—

(A) the development of public transportation research projects that received assistance under [subsection (b)] *subsection (c)* that the Secretary determines were successful;

(B) planning and forecasting modeling and simulation;

(C) capital and operating efficiencies;

(D) advanced vehicle design;

(E) advancements in vehicle technology;

(F) the environment and energy efficiency;

(G) system capacity, including train control and capacity improvements; or

(H) any other area that the Secretary determines is important to advance the interests of public transportation.

[(d)] *(e)* DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—

(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

(2) PARTICIPANTS.—An entity described in this paragraph is—

(A) an entity described in [subsection (a)(2)] *subsection (b)(2)*; or

(B) a consortium of entities described in [subsection (a)(2)] *subsection (b)(2)*, including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

(3) PROJECT ELIGIBILITY.—A project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

(A) the deployment of research and technology development resulting from private efforts or Federally funded efforts; and

(B) the implementation of research and technology development to advance the interests of public transportation.

(4) EVALUATION.—Not later than 2 years after the date on which a project receives assistance under paragraph (1), the Secretary shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

(5) LOW OR NO EMISSION VEHICLE DEPLOYMENT.—

(A) DEFINITIONS.—In this paragraph, the following definitions shall apply:

(i) ELIGIBLE AREA.—The term "eligible area" means an area that is—

(I) 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) a maintenance area, as defined in section 5303, for ozone or carbon monoxide.

(ii) ELIGIBLE PROJECT.—The term "eligible project" means a project or program of projects in an eligible area for—

(I) acquiring or leasing low or no emission vehicles;

(II) constructing or leasing facilities and related equipment for low or no emission vehicles;

(III) constructing new public transportation facilities to accommodate low or no emission vehicles; or

(IV) rehabilitating or improving existing public transportation facilities to accommodate low or no emission vehicles.

(iii) DIRECT CARBON EMISSIONS.—The term "direct carbon emissions" means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency.

(iv) LOW OR NO EMISSION BUS.—The term "low or no emission bus" means a bus that is a low or no emission vehicle.

(v) LOW OR NO EMISSION VEHICLE.—The term "low or no emission vehicle" means—

(I) a passenger vehicle used to provide public transportation that the Administrator of the Environmental Protection Agency has certified sufficiently reduces energy consumption or reduces harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle; or

(II) a zero emission bus used to provide public transportation.

[(vi) RECIPIENT.—The term "recipient" means—

[(I) for an eligible area that is an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, the State in which the eligible area is located; and

[(II) for an eligible area not described in subparagraph (A), the designated recipient for the eligible area.]

[(vii)] *(vi)* ZERO EMISSION BUS.—The term "zero emission bus" means a low or no emission bus that produces no carbon or particulate matter.

(B) AUTHORITY.—The Secretary may make grants to [recipients] *participants* to finance eligible projects under this paragraph.

(C) GRANT REQUIREMENTS.—

(i) IN GENERAL.—A grant under this paragraph shall be subject to the requirements of section 5307.

[(ii) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(j) applies to projects carried out under this paragraph, unless the grant recipient requests a lower grant percentage.]

(ii) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project carried out under this paragraph shall be 80 percent of the net project cost of the project unless the grant recipient requests a lower grant percentage.

(iii) COMBINATION OF FUNDING SOURCES.—

(I) COMBINATION PERMITTED.—A project carried out under this paragraph may receive funding under section 5307, or any other provision of law.

(II) GOVERNMENT SHARE.—Nothing in this clause may be construed to alter the Government share required under this section, section 5307, or any other provision of law.

(D) MINIMUM AMOUNTS.—Of amounts made available by or appropriated under section 5338(b) in each fiscal year to carry out this paragraph—

(i) not less than 65 percent shall be made available to fund eligible projects relating to low or no emission buses; and

(ii) not less than 10 percent shall be made available for eligible projects relating to facilities and related equipment for low or no emission buses.

(E) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

(F) PRIORITY CONSIDERATION.—In making grants under this paragraph, the Secretary shall give priority to projects relating to low or no emission buses that make greater reductions in energy consumption and harmful emissions, including direct carbon emissions, than comparable standard buses or other low or no emission buses.

[(G) AVAILABILITY OF FUNDS.—Any amounts made available or appropriated to carry out this paragraph—

[(i) shall remain available to an eligible project for 2 years after the fiscal year for which the amount is made available or appropriated; and

[(ii) that remain unobligated at the end of the period described in clause (i) shall be added to the amount made available to an eligible project in the following fiscal year.]

[(e) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report that includes—]

(f) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall make available to the public on the Web site of the Department of Transportation, a report that includes—

(1) a description of each project that received assistance under this section during the preceding fiscal year; *and*

(2) an evaluation of each project described in paragraph (1), including any evaluation conducted under [subsection (d)(4)] *subsection (e)(4)* for the preceding fiscal year[; and].

[(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.]

[(f)] *(g)* GOVERNMENT SHARE OF COSTS.—

(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent.

(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.

(h) TRANSIT COOPERATIVE RESEARCH PROGRAM.—

(1) IN GENERAL.—The amounts made available under section 5338(b) are available for a public transportation cooperative research program.

(2) INDEPENDENT GOVERNING BOARD.—

(A) ESTABLISHMENT.—The Secretary shall establish an independent governing board for the program under this subsection.

(B) RECOMMENDATIONS.—The board shall recommend public transportation research, development, and technology transfer activities the Secretary considers appropriate.

(3) FEDERAL ASSISTANCE.—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 considers appropriate.

(4) GOVERNMENT'S SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this subsection, the Secretary shall establish a Government share consistent with that benefit.

(5) LIMITATION ON APPLICABILITY.—Subsections (f) and (g) shall not apply to activities carried out under this subsection.

[§ 5313. Transit cooperative research program

[(a) COOPERATIVE RESEARCH PROGRAM.—The amounts made available under section 5338(c) are available for a public transportation cooperative research program. The Secretary 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. Technical assistance and standards development

[(a) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

[(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

[(A) more effectively and efficiently provide public transportation service;

[(B) administer funds received under this chapter in compliance with Federal law; and

[(C) improve public transportation.

[(2) ELIGIBLE ACTIVITIES.—The activities carried out under paragraph (1) may include—

[(A) technical assistance; and

[(B) the development of voluntary and consensus-based standards and best practices by the public transportation industry, including standards and best practices for safety, fare collection, Intelligent Transportation Systems, accessibility, procurement, security, asset management to maintain a state of good repair, operations, maintenance, vehicle propulsion, communications, and vehicle electronics.

[(b) TECHNICAL ASSISTANCE.—The Secretary, through a competitive bid process, may enter into contracts, cooperative agreements, and other agreements with national nonprofit organizations that have the appropriate demonstrated capacity to provide public transportation-related technical assistance under this section. The Secretary may enter into such contracts, cooperative agreements,

and other agreements to assist providers of public transportation to—

[(1) comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act;

[(2) 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 technical assistance, training, and support services related to complying with such requirements;

[(3) meet the transportation needs of elderly individuals;

[(4) increase transit ridership in coordination with metropolitan planning organizations and other entities through development around public transportation stations through technical assistance and the development of tools, guidance, and analysis related to market-based development around transit stations;

[(5) address transportation equity with regard to the effect that transportation planning, investment and operations have for low-income and minority individuals; and

[(6) any other technical assistance activity that the Secretary determines is necessary to advance the interests of public transportation.

[(c) ANNUAL REPORT ON TECHNICAL ASSISTANCE.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report that includes—

[(1) a description of each project that received assistance under this section during the preceding fiscal year;

[(2) an evaluation of the activities carried out by each organization that received assistance under this section during the preceding fiscal year; and

[(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.

[(d) GOVERNMENT SHARE OF COSTS.—

[(1) IN GENERAL.—The Government share of the cost of an activity carried out using a grant under this section may not exceed 80 percent.

[(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity carried out using a grant under this section may be derived from in-kind contributions.]

§ 5314. Technical assistance and workforce development

(a) TECHNICAL ASSISTANCE AND STANDARDS.—

(1) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

(A) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out

activities that the Secretary determines will assist recipients of assistance under this chapter to—

(i) more effectively and efficiently provide public transportation service;

(ii) administer funds received under this chapter in compliance with Federal law; and

(iii) improve public transportation.

(B) ELIGIBLE ACTIVITIES.—The activities carried out under subparagraph (A) may include—

(i) technical assistance; and

(ii) the development of voluntary and consensus-based standards and best practices by the public transportation industry, including standards and best practices for safety, fare collection, intelligent transportation systems, accessibility, procurement, security, asset management to maintain a state of good repair, operations, maintenance, vehicle propulsion, communications, and vehicle electronics.

(2) TECHNICAL ASSISTANCE.—The Secretary, through a competitive bid process, may enter into contracts, cooperative agreements, and other agreements with national nonprofit organizations that have the appropriate demonstrated capacity to provide public-transportation-related technical assistance under this subsection. The Secretary may enter into such contracts, cooperative agreements, and other agreements to assist providers of public transportation to—

(A) comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act;

(B) 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 technical assistance, training, and support services related to complying with such requirements;

(C) meet the transportation needs of elderly individuals;

(D) increase transit ridership in coordination with metropolitan planning organizations and other entities through development around public transportation stations through technical assistance and the development of tools, guidance, and analysis related to market-based development around transit stations;

(E) address transportation equity with regard to the effect that transportation planning, investment, and operations have for low-income and minority individuals;

(F) facilitate best practices to promote bus driver safety;

(G) meet the requirements of sections 5323(j) and 5323(m);

(H) assist with the development and deployment of zero emission transit technologies; and

(I) any other technical assistance activity that the Secretary determines is necessary to advance the interests of public transportation.

(3) ANNUAL REPORT ON TECHNICAL ASSISTANCE.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report that includes—

(A) a description of each project that received assistance under this subsection during the preceding fiscal year;

(B) an evaluation of the activities carried out by each organization that received assistance under this subsection during the preceding fiscal year;

(C) a proposal for allocations of amounts for assistance under this subsection for the subsequent fiscal year; and

(D) measurable outcomes and impacts of the programs funded under subsections (b) and (c).

(4) GOVERNMENT SHARE OF COSTS.—

(A) IN GENERAL.—The Government share of the cost of an activity carried out using a grant under this subsection may not exceed 80 percent.

(B) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity carried out using a grant under this subsection may be derived from in-kind contributions.

(b) HUMAN RESOURCES AND TRAINING.—

(1) IN GENERAL.—The Secretary may undertake, or make grants and contracts for, programs that address human resource needs as they apply to public transportation activities. A program may include—

(A) an employment training program;

(B) an outreach program to increase veteran, minority, and female employment in public transportation activities;

(C) research on public transportation personnel and training needs;

(D) training and assistance for veteran and minority business opportunities; and

(E) consensus-based national training standards and certifications in partnership with industry stakeholders.

(2) INNOVATIVE PUBLIC TRANSPORTATION FRONTLINE WORKFORCE DEVELOPMENT PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subparagraph (1).

(B) ELIGIBLE PROGRAMS.—A program eligible for assistance under subsection (a) shall—

(i) develop apprenticeships for transit maintenance and operations occupations, including hands-on, peer trainer, classroom and on-the-job training as well as training for instructors and on-the-job mentors;

(ii) build local, regional, and statewide transit training partnerships in coordination with entities such as local employers, local public transportation operators, labor union organizations, workforce development

boards, State workforce agencies, State apprenticeship agencies (where applicable), and community colleges and university transportation centers, to identify and address workforce skill gaps and develop skills needed for delivering quality transit service and supporting employee career advancement;

(iii) provide improved capacity for safety, security, and emergency preparedness in local transit systems through—

(I) developing the role of the frontline workforce in building and sustaining safety culture and safety systems in the industry and in individual public transportation systems;

(II) specific training, in coordination with the National Transit Institute, on security and emergency preparedness, including protocols for coordinating with first responders and working with the broader community to address natural disasters or other threats to transit systems; and

(III) training to address frontline worker roles in promoting health and safety for transit workers and the riding public, and improving communication during emergencies between the frontline workforce and the riding public;

(iv) address current or projected workforce shortages by developing career pathway partnerships with high schools, community colleges, and other community organizations for recruiting and training underrepresented populations, including minorities, women, individuals with disabilities, veterans, and low-income populations as successful transit employees who can develop careers in the transit industry; or

(v) address youth unemployment by directing the Secretary to award grants to local entities for work-based training and other work-related and educational strategies and activities of demonstrated effectiveness to provide unemployed, low-income young adults and low-income youth with skills that will lead to employment.

(C) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

(i) are geographically diverse;

(ii) address the workforce and human resources needs of large public transportation providers;

(iii) address the workforce and human resources needs of small public transportation providers;

(iv) address the workforce and human resources needs of urban public transportation providers;

(v) address the workforce and human resources needs of rural public transportation providers;

(vi) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;

(vii) target areas with high rates of unemployment;

(viii) address current or projected workforce shortages in areas that require technical expertise; and

(ix) advance opportunities for minorities, women, veterans, individuals with disabilities, low-income populations, and other underserved populations.

(D) PROGRAM OUTCOMES.—A recipient of assistance under this subsection shall demonstrate outcomes for any program that includes skills training, on-the-job training, and work-based learning, including—

(i) the impact on reducing public transportation workforce shortages in the area served;

(ii) the diversity of training participants; and

(iii) the number of participants obtaining certifications or credentials required for specific types of employment.

(3) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under paragraph (1) or (2) shall be 50 percent.

(4) USE FOR TECHNICAL ASSISTANCE.—The Secretary may use not more than 1 percent of amounts made available to carry out this section to provide technical assistance for activities and programs developed, conducted, and overseen under paragraphs (1) and (2).

(c) NATIONAL TRANSIT INSTITUTE.—

(1) ESTABLISHMENT.—The Secretary shall establish a national transit institute and award grants to a public, 4-year institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), in order to carry out the duties of the institute.

(2) DUTIES.—

(A) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under paragraph (1) 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.

(B) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under subparagraph (A) may include courses in recent developments, techniques, and procedures related to—

(i) intermodal and public transportation planning;

(ii) management;

(iii) environmental factors;

(iv) acquisition and joint-use rights-of-way;

(v) engineering and architectural design;

(vi) procurement strategies for public transportation systems;

(vii) turnkey approaches to delivering public transportation systems;

(viii) new technologies;

(ix) emission reduction technologies;

(x) ways to make public transportation accessible to individuals with disabilities;

(xi) construction, construction management, insurance, and risk management;

(xii) maintenance;

(xiii) contract administration;

(xiv) inspection;

(xv) innovative finance;

(xvi) workplace safety; and

(xvii) public transportation security.

(3) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this subsection shall be provided—

(A) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or

(B) when the education and training are paid under paragraph (4), by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

(4) AVAILABILITY OF AMOUNTS.—Not more than 0.5 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 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 subsection.

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§ 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(d), 5309(l), and 5311(g), a grant made by the Government under this chapter for a project made eligible by this section is for **[**90 percent**]** *80 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**]** *80 percent*.

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[§ 5322. Human resources and training

[(a) IN GENERAL.—The Secretary may undertake, or make grants and contracts for, programs that address human resource needs as they apply to public transportation activities. A program may include—

[(1) an employment training program;

[(2) an outreach program to increase minority and female employment in public transportation activities;

[(3) research on public transportation personnel and training needs; and

[(4) training and assistance for minority business opportunities.

[(b) INNOVATIVE PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT PROGRAM.—

[(1) PROGRAM ESTABLISHED.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subsection (a).

[(2) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

[(A) are geographically diverse;

[(B) address the workforce and human resources needs of large public transportation providers;

[(C) address the workforce and human resources needs of small public transportation providers;

[(D) address the workforce and human resources needs of urban public transportation providers;

[(E) address the workforce and human resources needs of rural public transportation providers;

[(F) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;

[(G) target areas with high rates of unemployment; and

[(H) address current or projected workforce shortages in areas that require technical expertise.

[(c) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under subsection (a) or (b) shall be 50 percent.

[(d) NATIONAL TRANSIT INSTITUTE.—

[(1) ESTABLISHMENT.—The Secretary shall establish a national transit institute and award grants to a public 4-year degree-granting institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), in order to carry out the duties of the institute.

[(2) DUTIES.—

[(A) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under paragraph (1) 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.

[(B) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under subparagraph (A) may include courses in recent developments, techniques, and procedures related to—

[(i) intermodal and public transportation planning;

[(ii) management;

[(iii) environmental factors;

[(iv) acquisition and joint use rights-of-way;

[(v) engineering and architectural design;

[(vi) procurement strategies for public transportation systems;

[(vii) turnkey approaches to delivering public transportation systems;

[(viii) new technologies;

[(ix) emission reduction technologies;

[(x) ways to make public transportation accessible to individuals with disabilities;

[(xi) construction, construction management, insurance, and risk management;

[(xii) maintenance;

[(xiii) contract administration;

[(xiv) inspection;

[(xv) innovative finance;

[(xvi) workplace safety; and

[(xvii) public transportation security.

[(3) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this subsection shall be provided—

[(A) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or

[(B) when the education and training are paid under paragraph (4) of this subsection, by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

[(4) 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 subsection.

[(e) REPORT.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, 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 concerning the measurable outcomes and impacts of the programs funded under subsections (a) and (b).]

§ 5323. General provisions

(a) INTERESTS IN PROPERTY.—

(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in

addition to, transportation service provided by an existing public transportation company, only if—

(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

(C) just compensation under State or local law will be paid to the company for its franchise or property.

(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

(1) COOPERATION AND CONSULTATION.—The Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

(d) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) VIOLATIONS.—

(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit as-

sistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

(f) SCHOOLBUS TRANSPORTATION.—

(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

(g) BUYING BUSES UNDER OTHER LAWS.—Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

(h) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses; **[**or**]**

(2) pay incremental costs of incorporating art or landscaping into facilities, including the costs of an artist on the design team; or

[(2)] *(3)* support a procurement that uses an exclusionary or discriminatory specification.

(i) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—

(1) ACQUIRING VEHICLES AND VEHICLE-RELATED EQUIPMENT OR FACILITIES.—

(A) VEHICLES.—A grant for a project to be assisted under this chapter that involves acquiring vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or the Clean Air Act is for 85 percent of the net project cost.

(B) VEHICLE-RELATED EQUIPMENT OR FACILITIES.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

(2) 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.

(3) ACQUISITION OF BASE-MODEL BUSES.—A grant for the acquisition of a base-model bus for use in public transportation may be not more than 85 percent of the net project cost.

(j) BUY AMERICA.—

(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

[(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

[(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

[(ii) final assembly of the rolling stock has occurred in the United States; or**]**

(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

(i) the cost of components and subcomponents produced in the United States—

(I) for fiscal years 2016 and 2017, is more than 60 percent of the cost of all components of the rolling stock;

(II) for fiscal years 2018 and 2019, is more than 65 percent of the cost of all components of the rolling stock; and

(III) for fiscal year 2020 and each fiscal year thereafter, is more than 70 percent of the cost of all components of the rolling stock; and

(ii) final assembly of the rolling stock has occurred in the United States; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a de-

tailed written explanation of the waiver determination; and

(ii) provide the public with a reasonable period of time for notice and comment.

(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, 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 listing any waiver issued under paragraph (2) during the preceding year.

(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

(5) WAIVER PROHIBITED.—The Secretary 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) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a "Made in America" label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

(7) STATE REQUIREMENTS.—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.

(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—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.

(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

(k) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

(2) be included in the planning for those services.

(l) RELATIONSHIP TO OTHER LAWS.—

(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

(2) POLITICAL ACTIVITIES OF NONSUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

(m) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving rural areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

(n) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

(o) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

(p) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

(1) the incidental use does not interfere with the recipient's public transportation operations;

(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

(4) private entities pay all applicable excise taxes on fuel.

(q) CORRIDOR PRESERVATION.—

(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way 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.

(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

(r) 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. In determining reasonable access, capacity requirements of the recipient of assistance and the extent to which access would be detrimental to existing public transportation services must be considered.

(s) VALUE CAPTURE REVENUE ELIGIBLE FOR LOCAL SHARE.—A recipient of assistance under this chapter may use the revenue generated from value capture financing mechanisms as local matching funds for capital projects and operating costs eligible under this chapter.

(t) SPECIAL CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—If, in a 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 such 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 in the following fiscal year.

* * * * * * *

§ 5329. Public transportation safety program

(a) DEFINITION.—In this section, the term "recipient" means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

(A) safety performance criteria for all modes of public transportation;

(B) the definition of the term "state of good repair" established under section 5326(b);

(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

(ii) to the extent practicable, take into consideration—

(I) relevant recommendations of the National Transportation Safety Board; and

(II) recommendations of, and best practices standards developed by, the public transportation industry; [and]

(D) minimum safety standards to ensure the safe operation of public transportation systems that—

(i) are not related to performance standards for public transportation vehicles developed under subparagraph (C); and

(ii) to the extent practicable, take into consideration—

(I) relevant recommendations of the National Transportation Safety Board;

(II) best practices standards developed by the public transportation industry;

(III) any minimum safety standards or performance criteria being implemented across the public transportation industry;

(IV) relevant recommendations from the report under section 3018 of the Surface Transportation Reauthorization and Reform Act of 2015; and

(V) any additional information that the Secretary determines necessary and appropriate;

[(D)] *(E)* a public transportation safety certification training program, as described in subsection (c).

(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation

systems and employees of public transportation agencies directly responsible for safety oversight.

(2) INTERIM PROVISIONS.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.

(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

(1) IN GENERAL.—Effective 1 year after the effective date of a final rule issued by the Secretary to carry out this subsection, each recipient or State, as described in paragraph (3), shall certify that the recipient or State has established a comprehensive agency safety plan that includes, at a minimum—

(A) a requirement that the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan;

(B) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

(C) strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;

(D) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

(E) performance targets based on the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2);

(F) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and

(G) a comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes—

(i) the completion of a safety training program; and

(ii) continuing safety education and training.

(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.

(3) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN DRAFTING AND CERTIFICATION.—

(A) SECTION 5311.—For a recipient receiving assistance under section 5311, a State safety plan may be drafted and certified by the recipient or a State.

(B) SECTION 5307.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule designating recipients of assistance under section 5307 that are small public transportation providers or systems that may have their State safety plans drafted or certified by a State.

(e) STATE SAFETY OVERSIGHT PROGRAM.—

(1) APPLICABILITY.—This subsection applies only to eligible States.

(2) DEFINITION.—In this subsection, the term "eligible State" means a State that has—

(A) a rail fixed guideway public transportation system within the jurisdiction of the State that is not subject to regulation by the Federal Railroad Administration; or

(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

(B) adopts and enforces Federal and relevant State laws on rail fixed guideway public transportation safety;

(C) establishes a State safety oversight agency;

(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the eligible State;

(E) requires that employees and other designated personnel of the eligible State safety oversight agency who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

(4) STATE SAFETY OVERSIGHT AGENCY.—

(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

(i) is financially and legally independent from any public transportation entity that the State safety oversight agency oversees;

(ii) does not directly provide public transportation services in an area with a rail fixed guideway public transportation system subject to the requirements of this section;

(iii) does not employ any individual who is also responsible for the administration of rail fixed guideway public transportation programs subject to the requirements of this section;

(iv) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

(v) has investigative and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;

(vi) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and

(vii) provides, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems the State safety oversight agency oversees to—

(I) the Federal Transit Administration;

(II) the Governor of the eligible State; and

(III) the board of directors, or equivalent entity, of any rail fixed guideway public transportation system that the State safety oversight agency oversees.

(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—

(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or

(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.

(5) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—

(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this section, and establish and implement a State safety oversight program approved by the Secretary; or

(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out the State safety oversight program approved by the Secretary.

(6) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to eligible States to develop or carry out State safety oversight programs under this subsection. Grant funds may be used for program operational and administrative expenses, including employee training activities.

(B) APPORTIONMENT.—

(i) FORMULA.—The amount made available for State safety oversight under section 5336(h) shall be apportioned among eligible States under a formula to be established by the Secretary. Such formula shall take

into account fixed guideway vehicle revenue 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 eligible State.

(ii) ADMINISTRATIVE REQUIREMENTS.—Grant funds apportioned to States under this paragraph shall be 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 shall be subject to the requirements of this chapter as the Secretary determines appropriate.

(C) GOVERNMENT SHARE.—

(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

(I) any Federal funds;

(II) any funds received from a public transportation agency; or

(III) any revenues earned by a public transportation agency.

(iv) SAFETY TRAINING PROGRAM.—Recipients of funds made available to carry out sections 5307 and 5311 may use not more than 0.5 percent of their formula funds to pay not more than 80 percent of the cost of participation in the public transportation safety certification training program established under subsection (c), by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

(7) CERTIFICATION PROCESS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall determine whether or not each State safety oversight program meets the requirements of this subsection and the State safety oversight program is adequate to promote the purposes of this section.

(B) ISSUANCE OF CERTIFICATIONS AND DENIALS.—The Secretary shall issue a certification to each eligible State that the Secretary determines under subparagraph (A) adequately meets the requirements of this subsection, and shall issue a denial of certification to each eligible State that the Secretary determines under subparagraph (A) does not adequately meet the requirements of this subsection.

(C) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection and denies certification, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

(D) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety oversight program is not sufficient to certify the program, the Secretary—

(i) shall notify the Governor of the eligible State of such denial of certification and failure to adequately modify the program, and shall request that the Governor take all possible actions to correct deficiencies in the program to ensure the certification of the program; and

(ii) may—

(I) withhold funds available under paragraph (6) in an amount determined by the Secretary;

(II) withhold not more than 5 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 of this title, until the State safety oversight program has been certified; or

(III) require fixed guideway public transportation systems under such State safety oversight program to provide up to 100 percent of Federal assistance made available under this chapter only for safety-related improvements on such systems, until the State safety oversight program has been certified.

(8) EVALUATION OF PROGRAM AND ANNUAL REPORT.—The Secretary shall continually evaluate the implementation of a State safety oversight program by a State safety oversight agency, and shall submit on or before July 1 of each year 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—

(A) the amount of funds apportioned to each eligible State; and

(B) the certification status of each State safety oversight program, including what steps a State program that has been denied certification must take in order to be certified.

(9) FEDERAL OVERSIGHT.—The Secretary shall—

(A) oversee the implementation of each State safety oversight program under this subsection;

(B) audit the operations of each State safety oversight agency at least once triennially; and

(C) issue rules to carry out this subsection.

[(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

[(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

[(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient;

[(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

[(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

[(B) the Attorney General—

[(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

[(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

[(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

[(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

[(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

[(7) issue rules to carry out this section.]

(f) AUTHORITY OF SECRETARY.—

(1) IN GENERAL.—In carrying out this section, the Secretary may—

(A) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

(B) make reports and issue directives with respect to the safety of the public transportation system of a recipient or the public transportation industry generally;

(C) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

(i) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General as to whether the subpoena will interfere with an ongoing criminal investigation; and

(ii) the Attorney General—

(I) determines that the subpoena will not interfere with an ongoing criminal investigation; or

(II) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under clause (i);

(D) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

(E) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

(F) at reasonable times and in a reasonable manner, enter and inspect relevant records of the public transportation system of a recipient; and

(G) issue rules to carry out this section.

(2) ADDITIONAL AUTHORITY.—

(A) ADMINISTRATION OF STATE SAFETY OVERSIGHT ACTIVITIES.—If the Secretary finds that a State safety oversight agency that oversees a rail fixed guideway system operating in more than 2 States has become incapable of providing adequate safety oversight of such system, the Secretary may administer State safety oversight activities for such rail fixed guideway system until the States develop a State safety oversight program certified by the Secretary in accordance with subsection (e).

(B) FUNDING.—To carry out administrative and oversight activities authorized by this paragraph, the Secretary may use—

(i) grant funds apportioned to an eligible State under subsection (e)(6) to develop or carry out a State safety oversight program; and

(ii) grant funds apportioned to an eligible State under subsection (e)(6) that have not been obligated within the administrative period of availability.

(g) ENFORCEMENT ACTIONS.—

(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against **[**an eligible State, as defined in subsection (e),**]** *a recipient* that does not comply with Federal law with respect to the safety of the public transportation system, including—

(A) issuing directives;

(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

(C) imposing more frequent reporting requirements; **[**and**]**

(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects**[**.**]***; or*

(E) withholding not more than 25 percent of financial assistance under section 5307.

(2) USE OR WITHHOLDING OF FUNDS.—

(A) IN GENERAL.—The Secretary may require the use of funds *or withhold funds* in accordance with paragraph (1)(D) *or (1)(E)* only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

(B) LIMITATION.—The Secretary may only withhold funds in accordance with paragraph (1)(E), if enforcement actions under subparagraph (A), (B), (C), or (D) did not bring the recipient into compliance.

[(B)] *(C)* NOTICE.—Before withholding funds from a recipient, the Secretary shall provide to the recipient—

(i) written notice of a violation and the amount proposed to be withheld; and

(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

(h) COST-BENEFIT ANALYSIS.—

(1) ANALYSIS REQUIRED.—In carrying out this section, the Secretary shall take into consideration the costs and benefits of each action the Secretary proposes to take under this section.

(2) WAIVER.—The Secretary may waive the requirement under this subsection if the Secretary determines that such a waiver is in the public interest.

(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Secretary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

(j) ACTIONS UNDER STATE LAW.—

(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with—

(A) a Federal standard of care established by a regulation or order issued by the Secretary under this section; or

(B) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary.

(2) EFFECTIVE DATE.—This subsection shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment of the Federal Public Transportation Act of 2012.

(3) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

(k) NATIONAL PUBLIC TRANSPORTATION SAFETY REPORT.—Not later than 3 years after the date of enactment of the Federal Public Transportation Act of 2012, 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 that—

(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

(2) describes the effect on public transportation safety of activities carried out using grants under this section.

* * * * * * *

§ 5336. Apportionment of appropriations for formula grants

(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under [subsection (h)(4)] *subsection (g)(5)* to carry out section 5307—

(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the most recent decennial census; and

(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

(b) BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.—(1) In this subsection, "fixed guideway vehicle revenue miles" and "fixed guideway directional route miles" include passenger ferry operations directly or under contract by the designated recipient.

(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in an area; divided by

(ii) the total number of fixed guideway vehicle passenger miles traveled multiplied by the total number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

(D) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

(E) For purposes of subparagraph (A) and section 5337(c)(3), the Secretary shall deem to be attributable to an urbanized area not less than **[**22.27 percent**]** *27 percent* of the fixed guideway vehicle revenue miles or fixed guideway directional route miles in the public transportation system of a recipient that are located outside the urbanized area for which the recipient receives funds, in addition to the fixed guideway vehicle revenue miles or fixed guideway directional route miles of the recipient that are located inside the urbanized area.

(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown in the most recent decennial census; and

(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the

area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

(B) the total number of bus passenger miles traveled multiplied by the total number of bus passenger miles traveled for each dollar of operating cost in all areas.

(d) DATE OF APPORTIONMENT.—The Secretary shall—

(1) apportion amounts appropriated under section 5338(a)(2)(C) 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

(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient, as defined in section 5302(4).

(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c)(3). The Governor may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

(2) The Governor of a State may transfer any part of the State's apportionment under section 5311(c)(3) to supplement amounts apportioned to the State under subsection (a)(1) of this section.

(3) The Governor of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall distribute the transferred amounts to urbanized areas under this section.

(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

[(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 5-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.**]**

[(h)**]** *(g)* APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(C)—

(1) $30,000,000 for each fiscal year ending before October 1, 2015, and $2,377,049 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be set aside to carry out section 5307(h);

(2) 3.07 percent shall be apportioned to urbanized areas in accordance with **[**subsection (j)**]** *subsection (i)*;

[(3) of amounts not apportioned under paragraphs (1) and (2), 1.5 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i);**]**

(3) of amounts not apportioned under paragraphs (1) and (2)—

(A) for fiscal years 2016 through 2018, 1.5 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (h); and

(B) for fiscal years 2019 through 2021, 2 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (h);

(4) 0.5 percent shall be apportioned to eligible States for State safety oversight program grants in accordance with section 5329(e)(6); and

(5) any amount not apportioned under paragraphs (1), (2), (3), and (4) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

[(i)**]** *(h)* SMALL TRANSIT INTENSIVE CITIES FORMULA.—

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

(A) ELIGIBLE AREA.—The term "eligible area" means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a popu-

lation of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

(B) PERFORMANCE CATEGORY.—The term "performance category" means each of the following:

(i) Passenger miles traveled per vehicle revenue mile.

(ii) Passenger miles traveled per vehicle revenue hour.

(iii) Vehicle revenue miles per capita.

(iv) Vehicle revenue hours per capita.

(v) Passenger miles traveled per capita.

(vi) Passengers per capita.

(2) APPORTIONMENT.—

(A) APPORTIONMENT FORMULA.—The amount to be apportioned under [subsection (h)(3)] *subsection (g)(3)* shall be apportioned among eligible areas in the ratio that—

(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

[(j)] *(i)* APPORTIONMENT FORMULA.—The amounts apportioned under [subsection (h)(2)] *subsection (g)(2)* shall be apportioned among urbanized areas as follows:

(1) 75 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

(A) the number of eligible low-income individuals in each such urbanized area; bears to

(B) the number of eligible low-income individuals in all such urbanized areas.

(2) 25 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

(A) the number of eligible low-income individuals in each such urbanized area; bears to

(B) the number of eligible low-income individuals in all such urbanized areas.

§ 5337. State of good repair grants

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

(1) FIXED GUIDEWAY.—The term "fixed guideway" means a public transportation facility—

(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

(B) using rail;
(C) using a fixed catenary system;
(D) for a passenger ferry system; or
(E) for a bus rapid transit system.

(2) STATE.—The term "State" means the 50 States, the District of Columbia, and Puerto Rico.

(3) STATE OF GOOD REPAIR.—The term "state of good repair" has the meaning given that term by the Secretary, by rule, under section 5326(b).

(4) TRANSIT ASSET MANAGEMENT PLAN.—The term "transit asset management plan" means a plan developed by a recipient of funding under this chapter that—

(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

(b) GENERAL AUTHORITY.—

(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

(A) rolling stock;
(B) track;
(C) line equipment and structures;
(D) signals and communications;
(E) power equipment and substations;
(F) passenger stations and terminals;
(G) security equipment and systems;
(H) maintenance facilities and equipment;

(I) operational support equipment, including computer hardware and software;

(J) development and implementation of a transit asset management plan; and

(K) other replacement and rehabilitation projects the Secretary determines appropriate.

(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(I), 97.15 percent shall be apportioned to recipients in accordance with this subsection.

(2) AREA SHARE.—

(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with section 5336(b)(1) and using the definition of the term "fixed guideway" under

subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

(C) RECIPIENT.—For purposes of this paragraph, the term "recipient" means an entity that received funding under this section, as in effect for fiscal year 2011.

(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

(4) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

(B) SPECIAL RULE FOR FISCAL YEAR 2013.—In fiscal year 2013, the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term "fixed guideway" under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

(6) RECEIVING APPORTIONMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this subsection shall be apportioned to the designated recipient for the urbanized area in which the system operates.

(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act

for the 21st Century (Public Law 105-178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

(d) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

(1) DEFINITION.—For purposes of this subsection, the term "high intensity motorbus" means public transportation that is provided [on a facility with access for other high-occupancy vehicles] *on high-occupancy vehicle lanes during peak hours*.

(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(I), 2.85 percent shall be apportioned to urbanized areas for high intensity motorbus *vehicle* state of good repair in accordance with this subsection.

(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

(A) IN GENERAL.—The amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus vehicle revenue miles attributable to all areas.

(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus directional route miles attributable to all areas.

(4) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of high intensity motorbus vehicle revenue miles or high intensity motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of high intensity motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

(5) USE OF FUNDS.—A recipient in an urbanized area may use any portion of the amount apportioned to the recipient under this subsection for high intensity fixed guideway state of good repair projects under subsection (c) if the recipient demonstrates to the satisfaction of the Secretary that the high intensity motorbus public transportation vehicles in the urbanized area are in a state of good repair.

(e) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section 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; or

(D) 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.

[§ 5338. Authorizations

[(a) FORMULA GRANTS.—

[(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5318, 5322(d), 5335, 5337, 5339, and 5340, and section 20005(b) of the Federal Public Transportation Act of 2012, $8,478,000,000 for fiscal year 2013, $8,595,000,000 for fiscal year 2014, $8,595,000,000 for fiscal year 2015, and $681,024,590 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

[(A) $126,900,000 for fiscal year 2013, $128,800,000 for fiscal year 2014, $128,800,000 for fiscal 2015, and $10,205,464 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available to carry out section 5305;

[(B) $10,000,000 for each of fiscal years 2013 through 2015 and $792,350 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

[(C) $4,397,950,000 for fiscal year 2013, $4,458,650,000 for fiscal year 2014, $4,458,650,000 for fiscal year 2015, and $353,281,011 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

[(D) $254,800,000 for fiscal year 2013, $258,300,000 for fiscal year 2014, $258,300,000 for fiscal year 2015, and $20,466,393 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

[(E) $599,500,000 for fiscal year 2013, $607,800,000 for fiscal year 2014, $607,800,000 for fiscal year 2015, and $48,159,016 for the period beginning on October 1, 2015,

and ending on October 29, 2015, shall be available to provide financial assistance for rural areas under section 5311, of which not less than $30,000,000 for fiscal year 2013, $30,000,000 for fiscal year 2014, $30,000,000 for fiscal year 2015, and $2,377,049 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available to carry out section 5311(c)(1) and $20,000,000 for fiscal year 2013, $20,000,000 for fiscal year 2014, $20,000,000 for fiscal year 2015, and $1,584,699 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available to carry out section 5311(c)(2);

[(F) $3,000,000 for each of fiscal years 2013 through 2015 and $237,705 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available for bus testing under section 5318;

[(G) $5,000,000 for each of fiscal years 2013 through 2015 and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available for the national transit institute under section 5322(d);

[(H) $3,850,000 for each of fiscal years 2013 through 2015 and $305,055 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available to carry out section 5335;

[(I) $2,136,300,000 for fiscal year 2013, $2,165,900,000 for fiscal year 2014, $2,165,900,000 for fiscal year 2015, and $171,615,027 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available to carry out section 5337;

[(J) $422,000,000 for fiscal year 2013, $427,800,000 for fiscal year 2014, $427,800,000 for fiscal year 2015, and $33,896,721 for the period beginning on October 1, 2015, and ending on October 29, 2015,shall be available for the bus and bus facilities program under section 5339; and

[(K) $518,700,000 for fiscal year 2013, $525,900,000 for fiscal year 2014, $525,900,000 for fiscal year 2015, and $41,669,672 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and rural areas under section 5311.

[(b) RESEARCH, DEVELOPMENT DEMONSTRATION AND DEPLOYMENT PROJECTS.—There are authorized to be appropriated to carry out section 5312, $70,000,000 for fiscal year 2013, $70,000,000 for fiscal year 2014, $70,000,000 for fiscal year 2015, and $5,546,448 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(c) TRANSIT COOPERATIVE RESEARCH PROGRAM.—There are authorized to be appropriated to carry out section 5313, $7,000,000 for fiscal year 2013, $7,000,000 for fiscal year 2014, $7,000,000 for fiscal year 2015, and $554,645 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(d) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—There are authorized to be appropriated to carry out section 5314, $7,000,000 for fiscal year 2013, $7,000,000 for fiscal year 2014,

$7,000,000 for fiscal year 2015, and $554,645 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(e) HUMAN RESOURCES AND TRAINING.—There are authorized to be appropriated to carry out subsections (a), (b), (c), and (e) of section 5322, $5,000,000 for fiscal year 2013, $5,000,000 for fiscal year 2014, $5,000,000 for fiscal year 2015, and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(f) EMERGENCY RELIEF PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out section 5324.

[(g) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309, $1,907,000,000 for fiscal year 2013, $1,907,000,000 for fiscal year 2014, $1,907,000,000 for fiscal year 2015, and $151,101,093 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(h) ADMINISTRATION.—

[(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, $104,000,000 for fiscal year 2013, $104,000,000 for fiscal year 2014, $104,000,000 for fiscal year 2015, and $8,240,437 for the period beginning on October 1, 2015,

[and ending on October 29, 2015.

[(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than $5,000,000 for each of fiscal years 2013 through 2015 and not less than $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available to carry out section 5329.

[(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than $1,000,000 for each of fiscal years 2013 through 2015 and not less than $79,235 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be available to carry out section 5326.

[(i) OVERSIGHT.—

[(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

[(A) 0.5 percent of amounts made available to carry out section 5305.

[(B) 0.75 percent of amounts made available to carry out section 5307.

[(C) 1 percent of amounts made available to carry out section 5309.

[(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432; 126 Stat. 4968).

[(E) 0.5 percent of amounts made available to carry out section 5310.

[(F) 0.5 percent of amounts made available to carry out section 5311.

[(G) 0.75 percent of amounts made available to carry out section 5337(c).

[(2) ACTIVITIES.—The activities described in this paragraph are as follows:

[(A) Activities to oversee the construction of a major capital project.

[(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

[(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

[(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

[(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

[(j) 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 Government 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 Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

[(k) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.

[§ 5339. Bus and bus facilities formula grants

[(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist eligible recipients described in subsection (c)(1) 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 section 5307 apply to recipients of grants made under this section.

[(c) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

[(1) RECIPIENTS.—Eligible recipients under this section are designated recipients that operate fixed route bus service or that allocate funding to fixed route bus operators.

[(2) SUBRECIPIENTS.—A designated recipient that receives a grant under this section may allocate amounts of the grant to subrecipients that are public agencies or private nonprofit organizations engaged in public transportation.

[(d) DISTRIBUTION OF GRANT FUNDS.—Funds allocated under section 5338(a)(2)(J) shall be distributed as follows:

[(1) NATIONAL DISTRIBUTION.—$65,500,000 for each of fiscal years 2013 through 2015 and $5,189,891 for the period beginning on October 1, 2015, and ending on October 29, 2015, shall be allocated to all States and territories, with each State re-

ceiving $1,250,000 for each such fiscal year and $99,044 for such period and each territory receiving $500,000 for each such fiscal year and $39,617 for such period.

[(2) DISTRIBUTION USING POPULATION AND SERVICE FACTORS.—The remainder of the funds not otherwise distributed under paragraph (1) shall be allocated pursuant to the formula set forth in section 5336 other than subsection (b).

[(e) TRANSFERS OF APPORTIONMENTS.—

[(1) TRANSFER FLEXIBILITY FOR NATIONAL DISTRIBUTION FUNDS.—The Governor of a State may transfer any part of the State's apportionment under subsection (d)(1) to supplement amounts apportioned to the State under section 5311(c) of this title or amounts apportioned to urbanized areas under subsections (a) and (c) of section 5336 of this title.

[(2) TRANSFER FLEXIBILITY FOR POPULATION AND SERVICE FACTORS FUNDS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 any amounts apportioned under subsection (d)(2) that are not allocated to designated recipients in urbanized areas with a population of 200,000 or more.

[(f) GOVERNMENT'S SHARE OF COSTS.—

[(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project. A recipient of a grant under this section 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; or

[(D) from amounts received under a service agreement with a State or local social service agency or private social service organization.

[(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—Amounts made available under this section may be obligated by a 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 described in the preceding sentence, any amount that is not obligated on the last day of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

[(h) DEFINITIONS.—For purposes of this section:

[(1) The term "State" means a State of the United States.

[(2) The term "territory" means the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands.]

§ 5338. Authorizations

(a) FORMULA GRANTS.—

(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5314(c), 5318, 5335, 5337, 5339,

and 5340, and section 20005(b) of the Federal Public Transportation Act of 2012—

(A) $8,723,925,000 for fiscal year 2016;

(B) $8,879,211,000 for fiscal year 2017;

(C) $9,059,459,000 for fiscal year 2018;

(D) $9,240,648,000 for fiscal year 2019;

(E) $9,429,000,000 for fiscal year 2020; and

(F) $9,617,580,000 for fiscal year 2021.

(2) ALLOCATION OF FUNDS.—

(A) SECTION 5305.—Of the amounts made available under paragraph (1), there shall be available to carry out section 5305—

(i) $128,800,000 for fiscal year 2016;

(ii) $128,800,000 for fiscal year 2017;

(iii) $131,415,000 for fiscal year 2018;

(iv) $134,043,000 for fiscal year 2019;

(v) $136,775,000 for fiscal year 2020; and

(vi) $139,511,000 for fiscal year 2021.

(B) PILOT PROGRAM.—$10,000,000 for each of fiscal years 2016 through 2021, shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

(C) SECTION 5307.—Of the amounts made available under paragraph (1), there shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307—

(i) $4,458,650,000 for fiscal year 2016;

(ii) $4,458,650,000 for fiscal year 2017;

(iii) $4,549,161,000 for fiscal year 2018;

(iv) $4,640,144,000 for fiscal year 2019;

(v) $4,734,724,000 for fiscal year 2020; and

(vi) $4,829,418,000 for fiscal year 2021.

(D) SECTION 5310.—Of the amounts made available under paragraph (1), there shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310—

(i) $262,175,000 for fiscal year 2016;

(ii) $266,841,000 for fiscal year 2017;

(iii) $272,258,000 for fiscal year 2018;

(iv) $277,703,000 for fiscal year 2019;

(v) $283,364,000 for fiscal year 2020; and

(vi) $289,031,000 for fiscal year 2021.

(E) SECTION 5311.—

(i) IN GENERAL.—Of the amounts made available under paragraph (1), there shall be available to provide financial assistance for rural areas under section 5311—

(I) $607,800,000 for fiscal year 2016;

(II) $607,800,000 for fiscal year 2017;

(III) $620,138,000 for fiscal year 2018;

(IV) $632,541,000 for fiscal year 2019;

(V) $645,434,000 for fiscal year 2020; and

(VI) $658,343,000 for fiscal year 2021.

(ii) SUBALLOCATION.—Of the amounts made available under clause (i)—

(I) there shall be available to carry out section 5311(c)(1) not less than $30,000,000 for each of fiscal years 2016 through 2021; and

(II) there shall be available to carry out section 5311(c)(2) not less than $20,000,000 for each of fiscal years 2016 through 2021.

(F) SECTION 5314(c).—Of the amounts made available under paragraph (1), there shall be available for the national transit institute under section 5314(c) $5,000,000 for each of fiscal years 2016 through 2021.

(G) SECTION 5318.—Of the amounts made available under paragraph (1), there shall be available for bus testing under section 5318 $3,000,000 for each of fiscal years 2016 through 2021.

(H) SECTION 5335.—Of the amounts made available under paragraph (1), there shall be available to carry out section 5335 $3,850,000 for each of fiscal years 2016 through 2021.

(I) SECTION 5337.—Of the amounts made available under paragraph (1), there shall be available to carry out section 5337—

(i) $2,198,389,000 for fiscal year 2016;
(ii) $2,237,520,000 for fiscal year 2017;
(iii) $2,282,941,000 for fiscal year 2018;
(iv) $2,328,600,000 for fiscal year 2019;
(v) $2,376,064,000 for fiscal year 2020; and
(vi) $2,423,585,000 for fiscal year 2021.

(J) SECTION 5339(c).—Of the amounts made available under paragraph (1), there shall be available for bus and bus facilities programs under section 5339(c)—

(i) $430,000,000 for fiscal year 2016;
(ii) $431,850,000 for fiscal year 2017;
(iii) $445,120,000 for fiscal year 2018;
(iv) $458,459,000 for fiscal year 2019;
(v) $472,326,000 for fiscal year 2020; and
(vi) $486,210,000 for fiscal year 2021.

(K) SECTION 5339(d).—Of the amounts made available under paragraph (1), there shall be available for bus and bus facilities competitive grants under 5339(d)—

(i) $90,000,000 for fiscal year 2016; and

(ii) $200,000,000 for each of fiscal years 2017 through 2021.

(L) SECTION 5340.—Of the amounts made available under paragraph (1), there shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and rural areas under section 5311—

(i) $525,900,000 for fiscal year 2016;
(ii) $525,900,000 for fiscal year 2017;
(iii) $536,576,000 for fiscal year 2018;
(iv) $547,307,000 for fiscal year 2019;
(v) $558,463,000 for fiscal year 2020; and
(vi) $569,632,000 for fiscal year 2021.

(b) RESEARCH, DEVELOPMENT DEMONSTRATION AND DEPLOYMENT PROJECTS.—There are authorized to be appropriated to carry out section 5312—

(1) $33,495,000 for fiscal year 2016;
(2) $34,091,000 for fiscal year 2017;
(3) $34,783,000 for fiscal year 2018;
(4) $35,479,000 for fiscal year 2019;
(5) $36,202,000 for fiscal year 2020; and
(6) $36,926,000 for fiscal year 2021.

(c) TECHNICAL ASSISTANCE, STANDARDS, AND WORKFORCE DEVELOPMENT.—There are authorized to be appropriated to carry out section 5314—

(1) $6,156,000 for fiscal year 2016;
(2) $8,152,000 for fiscal year 2017;
(3) $10,468,000 for fiscal year 2018;
(4) $12,796,000 for fiscal year 2019;
(5) $15,216,000 for fiscal year 2020; and
(6) $17,639,000 for fiscal year 2021.

(d) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309—

(1) $2,029,000,000 for fiscal year 2016;
(2) $2,065,000,000 for fiscal year 2017;
(3) $2,106,000,000 for fiscal year 2018;
(4) $2,149,000,000 for fiscal year 2019;
(5) $2,193,000,000 for fiscal year 2020; and
(6) $2,237,000,000 for fiscal year 2021.

(e) ADMINISTRATION.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, $105,933,000 for fiscal years 2016 through 2021.

(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than $4,500,000 for each of fiscal years 2016 through 2021 shall be available to carry out section 5329.

(3) SECTION 5326.—Of the amounts made available under paragraph (1), not less than $1,000,000 for each of fiscal years 2016 through 2021 shall be available to carry out section 5326.

(f) PERIOD OF AVAILABILITY.—Amounts made available by or appropriated under this section 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.

(g) 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 Government 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 Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

(h) OVERSIGHT.—

(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

(A) 0.5 percent of amounts made available to carry out section 5305.

(B) 0.75 percent of amounts made available to carry out section 5307.

(C) 1 percent of amounts made available to carry out section 5309.

(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 122 Stat. 4968).

(E) 0.5 percent of amounts made available to carry out section 5310.

(F) 0.5 percent of amounts made available to carry out section 5311.

(G) 0.75 percent of amounts made available to carry out section 5337(c), of which not less than 0.25 percent shall be available to carry out section 5329.

(H) 0.75 percent of amounts made available to carry out section 5339.

(2) ACTIVITIES.—The activities described in this paragraph are as follows:

(A) Activities to oversee the construction of a major capital project.

(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

§ 5339. Bus and bus facility grants

(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist eligible recipients described in subsection (b)(1) in financing capital projects—

(1) to replace, rehabilitate, and purchase buses and related equipment; and

(2) to construct bus-related facilities.

(b) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

(1) RECIPIENTS.—Eligible recipients under this section are designated recipients that operate fixed route bus service or that allocate funding to fixed route bus operators.

(2) SUBRECIPIENTS.—A designated recipient that receives a grant under this section may allocate amounts of the grant to

subrecipients that are public agencies or private nonprofit organizations engaged in public transportation.

(c) FORMULA GRANT DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Funds made available for making grants under this subsection shall be distributed as follows:

(A) NATIONAL DISTRIBUTION.—$65,500,000 for each of fiscal years 2016 through 2021 shall be allocated to all States and territories, with each State receiving $1,250,000, and each territory receiving $500,000, for each such fiscal year.

(B) DISTRIBUTION USING POPULATION AND SERVICE FACTORS.—The remainder of the funds not otherwise distributed under paragraph (1) shall be allocated pursuant to the formula set forth in section 5336 (other than subsection (b) of that section).

(2) TRANSFERS OF APPORTIONMENTS.—

(A) TRANSFER FLEXIBILITY FOR NATIONAL DISTRIBUTION FUNDS.—The Governor of a State may transfer any part of the State's apportionment under subparagraph (A) to supplement—

(i) amounts apportioned to the State under section 5311(c); or

(ii) amounts apportioned to urbanized areas under subsections (a) and (c) of section 5336.

(B) TRANSFER FLEXIBILITY FOR POPULATION AND SERVICE FACTORS FUNDS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 any amounts apportioned under paragraph (1)(B) that are not allocated to designated recipients in urbanized areas with a population of 200,000 or more.

(3) PERIOD OF AVAILABILITY TO RECIPIENTS.—

(A) IN GENERAL.—Amounts made available under this subsection may be obligated by a recipient for 3 years after the fiscal year in which the amount is apportioned.

(B) REAPPORTIONMENT OF UNOBLIGATED AMOUNTS.—Not later than 30 days after the end of the 3-year period described in subparagraph (A), any amount that is not obligated on the last day of that period shall be added to the amount that may be apportioned under this subsection in the next fiscal year.

(4) PILOT PROGRAM FOR COST-EFFECTIVE CAPITAL INVESTMENT.—

(A) IN GENERAL.—For each of fiscal years 2016 through 2021, the Secretary shall carry out a pilot program under which an eligible designated recipient (as described in subsection (c)(1)) in an urbanized area with population of not less than 200,000 and not more than 999,999 may elect to participate in a State pool in accordance with this paragraph.

(B) PURPOSE OF STATE POOLS.—The purpose of a State pool shall be to allow for transfers of formula grant funds made available under this subsection among the designated recipients participating in the State pool in a manner that supports the transit asset management plans of the designated recipients under section 5326.

(C) REQUESTS FOR PARTICIPATION.—A State, and designated recipients in the State described in subparagraph (A), may submit to the Secretary a request for participation in the program under procedures to be established by the Secretary. A designated recipient for a multistate area may participate in only 1 State pool.

(D) ALLOCATIONS TO PARTICIPATING STATES.—For each fiscal year, the Secretary shall allocate to each State participating in the program the total amount of funds that otherwise would be allocated to the urbanized areas of the designated recipients participating in the State's pool for that fiscal year pursuant to the formula referred to in paragraph (1).

(E) ALLOCATIONS TO DESIGNATED RECIPIENTS IN STATE POOLS.—A State shall distribute the amount that is allocated to the State for a fiscal year under subparagraph (D) among the designated recipients participating in the State's pool in a manner that supports the transit asset management plans of the recipients under section 5326.

(F) ALLOCATION PLANS.—A State participating in the program shall develop an allocation plan for the period of fiscal years 2016 through 2021 to ensure that a designated recipient participating in the State's pool receives under the program an amount of funds that equals the amount of funds that would have otherwise been available to the designated recipient for that period pursuant to the formula referred to in paragraph (1).

(G) GRANTS.—The Secretary shall make grants under this subsection for a fiscal year to a designated recipient participating in a State pool following notification by the State of the allocation amount determined under subparagraph (E).

(d) COMPETITIVE GRANTS FOR BUS STATE OF GOOD REPAIR.—

(1) IN GENERAL.—The Secretary may make grants under this subsection to eligible recipients described in subsection (b)(1) to assist in financing capital projects described in subsection (a).

(2) GRANT CONSIDERATIONS.—In making grants under this subsection, the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities of an eligible recipient.

(3) STATEWIDE APPLICATIONS.—A State may submit a statewide application on behalf of a public agency or private nonprofit organization engaged in public transportation in rural areas or other areas for which the State allocates funds. The submission of a statewide application shall not preclude the submission and consideration of any application under this subsection from other eligible recipients in an urbanized area in a State.

(4) REQUIREMENTS FOR SECRETARY.—The Secretary shall—

(A) disclose all metrics and evaluation procedures to be used in considering grant applications under this subsection upon issuance of the notice of funding availability in the Federal Register; and

(B) publish a summary of final scores for selected projects, metrics, and other evaluations used in awarding grants under this subsection in the Federal Register.

(5) AVAILABILITY OF FUNDS.—Any amounts made available to carry out this subsection—

(A) shall remain available for 2 fiscal years after the fiscal year for which the amount is made available; and

(B) following the period of availability shall be made available to be apportioned under subsection (c) for the following fiscal year.

(6) LIMITATION.—Of the amounts made available under this subsection, not more than 15 percent in fiscal year 2016 and not more than 5 percent in each of fiscal years 2017 through 2021 may be awarded to a single recipient.

(7) GRANT FLEXIBILITY.—If the Secretary determines that there are not sufficient grant applications that meet the metrics described in paragraph (4)(A) to utilize the full amount of funds made available to carry out this subsection for a fiscal year, the Secretary may use the remainder of the funds for making apportionments under sections 5307 and 5311.

(e) GENERALLY APPLICABLE PROVISIONS.—

(1) GRANT REQUIREMENTS.—A grant under this section shall be subject to the requirements of—

(A) section 5307 for recipients of grants made in urbanized areas; and

(B) section 5311 for recipients of grants made in rural areas.

(2) GOVERNMENT'S SHARE OF COSTS.—

(A) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project. A recipient of a grant under this section may provide additional local matching amounts.

(B) REMAINING COSTS.—The remainder of the net project cost shall be provided—

(i) in cash from non-Government sources other than revenues from providing public transportation services;

(ii) from revenues derived from the sale of advertising and concessions;

(iii) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; or

(iv) from amounts received under a service agreement with a State or local social service agency or private social service organization.

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

(1) STATE.—The term "State" means a State of the United States.

(2) TERRITORY.—The term "territory" means the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands.

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CHAPTER 55—INTERMODAL TRANSPORTATION

SUBCHAPTER I—GENERAL

Sec.
5501. National Intermodal Transportation System policy.

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[5503. Office of Intermodalism.]

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SUBCHAPTER I—GENERAL

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[§ 5503. Office of Intermodalism

[(a) ESTABLISHMENT.—There is established in the Research Office of the Assistant Secretary for Research and Technology of the Department of Transportation an Office of Intermodalism.

[(b) DIRECTOR.—The head of the Office is a Director who shall be appointed by the Secretary.

[(c) DUTIES AND POWERS.—The Director shall carry out the duties of the Secretary described in section 301(3) of this title.

[(d) RESEARCH.—The Director shall—

[(1) coordinate United States Government research on intermodal transportation as provided in the plan developed under section 6009(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 2177); and

[(2) carry out additional research needs identified by the Director.

[(e) TECHNICAL ASSISTANCE.—The Director shall provide technical assistance to States and to metropolitan planning organizations for urban areas having a population of at least 1,000,000 in collecting data related to intermodal transportation to facilitate the collection of the data by States and metropolitan planning organizations. Amounts reserved under section 5504(d) not awarded to States as grants may be used by the Director to provide technical assistance under this subsection.

[(f) NATIONAL INTERMODAL SYSTEM IMPROVEMENT PLAN.—

[(1) IN GENERAL.—The Director, in consultation with the advisory board established under section 5502 and other public and private transportation interests, shall develop a plan to improve the national intermodal transportation system. The plan shall include—

[(A) an assessment and forecast of the national intermodal transportation system's impact on mobility, safety, energy consumption, the environment, technology, international trade, economic activity, and quality of life in the United States;

[(B) an assessment of the operational and economic attributes of each passenger and freight mode of transportation and the optimal role of each mode in the national intermodal transportation system;

[(C) a description of recommended intermodal and multimodal research and development projects;

[(D) a description of emerging trends that have an impact on the national intermodal transportation system;

[(E) recommendations for improving intermodal policy, transportation decision-making, and financing to maximize mobility and the return on investment of Federal spending on transportation;

[(F) an estimate of the impact of current Federal and State transportation policy on the national intermodal transportation system; and

[(G) specific near and long-term goals for the national intermodal transportation system.

[(2) PROGRESS REPORTS.—The Director shall submit an initial report on the plan to improve the national intermodal transportation system 2 years after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2005, and a follow-up report 2 years after that, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The progress report shall—

[(A) describe progress made toward achieving the plan's goals;

[(B) describe challenges and obstacles to achieving the plan's goals;

[(C) update the plan to reflect changed circumstances or new developments; and

[(D) make policy and legislative recommendations the Director believes are necessary and appropriate to achieve the goals of the plan.

[(3) PLAN DEVELOPMENT FUNDING.—Such sums as may be necessary from the administrative expenses of the Research and Innovative Technology Administration shall be reserved by the Secretary of Transportation each year for the purpose of completing and updating the plan to improve the national intermodal transportation plan.

[(g) IMPACT MEASUREMENT METHODOLOGY; IMPACT REVIEW.—The Director and the Director of the Bureau of Transportation Statistics shall jointly—

[(1) develop, in consultation with the modal administrations, and State and local planning organizations, common measures to compare transportation investment decisions across the various modes of transportation; and

[(2) formulate a methodology for measuring the impact of intermodal transportation on—

[(A) the environment;

[(B) public health and welfare;

[(C) energy consumption;

[(D) the operation and efficiency of the transportation system;

[(E) congestion, including congestion at the Nation's ports; and

[(F) the economy and employment.

[(h) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Director shall provide administrative and clerical support to the Intermodal Transportation Advisory Board.

[(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation such sums as

may be necessary for fiscal years 2006 through 2009 to carry out this chapter.]

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[§ 5505. University transportation centers program

[(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

[(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

[(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

[(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

[(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

[(C) to address critical workforce needs and educate the next generation of transportation leaders.

[(b) COMPETITIVE SELECTION PROCESS.—

[(1) APPLICATIONS.—To receive a grant under this section, a nonprofit institution of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

[(2) RESTRICTION.—A nonprofit institution of higher education or the lead institution of a consortium of nonprofit institutions of higher education, as applicable, that receives a grant for a national transportation center or a regional transportation center in a fiscal year shall not be eligible to receive as a lead institution or member of a consortium an additional grant in that fiscal year for a national transportation center or a regional transportation center.

[(3) COORDINATION.—The Secretary shall solicit grant applications for national transportation centers, regional transportation centers, and Tier 1 university transportation centers with identical advertisement schedules and deadlines.

[(4) GENERAL SELECTION CRITERIA.—

[(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23.

[(B) CRITERIA.—The Secretary, in consultation as appropriate with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

[(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

[(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

[(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

[(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

[(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

[(I) degree-granting programs; and

[(II) outreach activities to attract new entrants into the transportation field;

[(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

[(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

[(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

[(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

[(5) TRANSPARENCY.—

[(A) IN GENERAL.—The Secretary shall provide to each applicant, upon request, any materials, including copies of reviews (with any information that would identify a reviewer redacted), used in the evaluation process of the proposal of the applicant.

[(B) REPORTS.—The Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the overall review process under paragraph (3) that includes—

[(i) specific criteria of evaluation used in the review;

[(ii) descriptions of the review process; and

[(iii) explanations of the selected awards.

[(6) OUTSIDE STAKEHOLDERS.—The Secretary shall, to the maximum extent practicable, consult external stakeholders such as the Transportation Research Board of the National Academy of Sciences to evaluate and competitively review all proposals.

[(c) GRANTS.—

[(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Secretary, in consultation as appro-

priate with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

[(2) NATIONAL TRANSPORTATION CENTERS.—

[(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide grants to 5 recipients that the Secretary determines best meet the criteria described in subsection (b)(3).

[(B) RESTRICTIONS.—

[(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall be $3,000,000 per recipient.

[(ii) FOCUSED RESEARCH.—The grant recipients under this paragraph shall focus research on national transportation issues, as determined by the Secretary.

[(C) MATCHING REQUIREMENT.—

[(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

[(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under section 504(b) or 505 of title 23.

[(3) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

[(A) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled "Standard Federal Regions" and dated April, 1974 (circular A-105).

[(B) SELECTION CRITERIA.—In conducting a competition under subsection (b), the Secretary shall provide grants to 10 recipients on the basis of—

[(i) the criteria described in subsection (b)(3);

[(ii) the location of the center within the Federal region to be served; and

[(iii) whether the institution (or, in the case of consortium of institutions, the lead institution) demonstrates that the institution has a well-established, nationally recognized program in transportation research and education, as evidenced by—

[(I) recent expenditures by the institution in highway or public transportation research;

[(II) a historical track record of awarding graduate degrees in professional fields closely related to highways and public transportation; and

[(III) an experienced faculty who specialize in professional fields closely related to highways and public transportation.

[(C) RESTRICTIONS.—For each fiscal year, a grant made available under this paragraph shall be $2,750,000 for each recipient.

[(D) MATCHING REQUIREMENTS.—

[(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

[(ii) SOURCES.—The matching amounts referred to in the clause (i) may include amounts made available to the recipient under section 504(b) or 505 of title 23.

[(E) FOCUSED RESEARCH.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under this paragraph for the purpose of furthering the objectives described in subsection (a)(2) in the field of comprehensive transportation safety.

[(4) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

[(A) IN GENERAL.—The Secretary shall provide grants of $1,500,000 each to not more than 20 recipients to carry out this paragraph.

[(B) RESTRICTION.—A lead institution of a consortium that receives a grant under paragraph (2) or (3) shall not be eligible to receive a grant under this paragraph.

[(C) MATCHING REQUIREMENT.—

[(i) IN GENERAL.—Subject to clause (iii), as a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

[(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under section 504(b) or 505 of title 23.

[(iii) EXEMPTION.—This subparagraph shall not apply on a demonstration of financial hardship by the applicant institution.

[(D) FOCUSED RESEARCH.—In awarding grants under this paragraph, consideration shall be given to minority institutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.

[(d) PROGRAM COORDINATION.—

[(1) IN GENERAL.—The Secretary shall—

[(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

[(B) disseminate the results of that research through the establishment and operation of an information clearinghouse.

[(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall—

[(A) review and evaluate the programs carried out under this section by grant recipients; and

[(B) submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing that review and evaluation.

[(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 and 2014, the Secretary shall expend not more than 1 ½ percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section.

[(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are appropriated.

[(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.]

§ 5505. University transportation centers program

(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

(C) to address critical workforce needs and educate the next generation of transportation leaders.

(b) COMPETITIVE SELECTION PROCESS.—

(1) APPLICATIONS.—To receive a grant under this section, a consortium of nonprofit institutions of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

(2) LIMITATION.—A lead institution of a consortium of nonprofit institutions of higher education, as applicable, may only submit 1 grant application per fiscal year for each of the transportation centers described under paragraphs (2), (3), and (4) of subsection (c).

(3) COORDINATION.—The Secretary shall solicit grant applications for national transportation centers, regional transportation centers, and Tier 1 university transportation centers with identical advertisement schedules and deadlines.

(4) GENERAL SELECTION CRITERIA.—

(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23.

(B) CRITERIA.—The Secretary, in consultation with the Assistant Secretary for Research and Technology and the

Administrator of the Federal Highway Administration, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

(I) degree-granting programs or programs that provide other industry-recognized credentials; and

(II) outreach activities to attract new entrants into the transportation field, including women and underrepresented populations;

(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

(5) TRANSPARENCY.—

(A) IN GENERAL.—The Secretary shall provide to each applicant, upon request, any materials, including copies of reviews (with any information that would identify a reviewer redacted), used in the evaluation process of the proposal of the applicant.

(B) REPORTS.—The Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the overall review process under paragraph (3) that includes—

(i) specific criteria of evaluation used in the review;

(ii) descriptions of the review process; and

(iii) explanations of the selected awards.

(6) OUTSIDE STAKEHOLDERS.—The Secretary shall, to the maximum extent practicable, consult external stakeholders such as the Transportation Research Board of the National Research Council of the National Academies to evaluate and competitively review all proposals.

(c) GRANTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, Assistant Secretary for Research and Technology, and the Administrator of the Federal Highway Administration shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

(2) NATIONAL TRANSPORTATION CENTERS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide grants to 5 consortia that the Secretary determines best meet the criteria described in subsection (b)(4).

(B) RESTRICTIONS.—

(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall be not greater than $4,000,000 and not less than $2,000,000 per recipient.

(ii) FOCUSED RESEARCH.—A consortium receiving a grant under this paragraph shall focus research on 1 of the transportation issue areas specified in section 508(a)(2) of title 23.

(C) MATCHING REQUIREMENT.—

(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b) of title 23; or

(II) section 505 of title 23.

(3) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

(A) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled "Standard Federal Regions" and dated April 1974 (circular A–105).

(B) SELECTION CRITERIA.—In conducting a competition under subsection (b), the Secretary shall provide grants to 10 consortia on the basis of—

(i) the criteria described in subsection (b)(4);

(ii) the location of the lead center within the Federal region to be served; and

(iii) whether the consortium of institutions demonstrates that the consortium has a well-established, nationally recognized program in transportation research and education, as evidenced by—

(I) recent expenditures by the institution in highway or public transportation research;

(II) a historical track record of awarding graduate degrees in professional fields closely related to highways and public transportation; and

(III) an experienced faculty who specialize in professional fields closely related to highways and public transportation.

(C) RESTRICTIONS.—For each fiscal year, a grant made available under this paragraph shall be not greater than $3,000,000 and not less than $1,500,000 per recipient.

(D) MATCHING REQUIREMENTS.—

(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b) of title 23; or

(II) section 505 of title 23.

(E) FOCUSED RESEARCH.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under this paragraph for the purpose of furthering the objectives described in subsection (a)(2) in the field of comprehensive transportation safety.

(4) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

(A) IN GENERAL.—The Secretary shall provide grants of not greater than $2,000,000 and not less than $1,000,000 to not more than 20 recipients to carry out this paragraph.

(B) MATCHING REQUIREMENT.—

(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b) of title 23; or

(II) section 505 of title 23.

(C) FOCUSED RESEARCH.—In awarding grants under this section, consideration shall be given to minority institutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.

(d) PROGRAM COORDINATION.—

(1) IN GENERAL.—The Secretary shall—

(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

(B) disseminate the results of that research through the establishment and operation of a publicly accessible online information clearinghouse.

(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall—

(A) review and evaluate the programs carried out under this section by grant recipients; and

(B) submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing that review and evaluation.

(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2016 through 2021, the Secretary shall expend not more than 1 and a half percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section.

(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are authorized.

(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.

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CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

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§ 6302. Bureau of Transportation Statistics

[(a) ESTABLISHMENT.—There is established in the Office of the Assistant Secretary for Research and Technology of the Department of Transportation the Bureau of Transportation Statistics.]

(a) IN GENERAL.—There shall be within the Department of Transportation the Bureau of Transportation Statistics.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary.

(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

(3) DUTIES.—

(A) IN GENERAL.—The Director shall—

(i) serve as the senior advisor to the Secretary on data and statistics; and

(ii) be responsible for carrying out the duties described in subparagraph (B).

(B) DUTIES.—The Director shall—

(i) ensure that the statistics compiled under clause (vi) are designed to support transportation decision-making by—

(I) the Federal Government;

(II) State and local governments;

(III) metropolitan planning organizations;

(IV) transportation-related associations;

(V) the private sector, including the freight community; and

(VI) the public;

(ii) establish on behalf of the Secretary a program—

(I) to effectively integrate safety data across modes; and

(II) to address gaps in existing safety data programs of the Department;

(iii) work with the operating administrations of the Department—

(I) to establish and implement the data programs of the Bureau; and

(II) to improve the coordination of information collection efforts with other Federal agencies;

(iv) continually improve surveys and data collection methods of the Department to improve the accuracy and utility of transportation statistics;

(v) encourage the standardization of data, data collection methods, and data management and storage technologies for data collected by—

(I) the Bureau;

(II) the operating administrations of the Department;

(III) State and local governments;

(IV) metropolitan planning organizations; and

(V) private sector entities;

(vi) collect, compile, analyze, and publish a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

(I) transportation safety across all modes and intermodally;

(II) the state of good repair of United States transportation infrastructure;

(III) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under [section 6310] *section 6309*;

(IV) economic efficiency across the entire transportation sector;

(V) the effects of the transportation system on global and domestic economic competitiveness;

(VI) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

(VII) transportation-related variables that influence the domestic economy and global competitiveness;

(VIII) economic costs and impacts for passenger travel and freight movement;

(IX) intermodal and multimodal passenger movement;

(X) intermodal and multimodal freight movement; and

(XI) consequences of transportation for the human and natural environment;

(vii) develop and improve transportation economic accounts to meet demand for methods for estimating the economic value of transportation infrastructure, investment, and services;

(viii) not be required to obtain the approval of any other officer or employee of the Department in connection with the collection or analysis of any information;

(ix) not be required, prior to publication, to obtain the approval of any other officer or employee of the Federal Government with respect to the substance of any statistical technical reports or press releases that the Director has prepared in accordance with the law;

[(vii)**]** *(x)* build and disseminate the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order), including by coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by other entities;

[(viii)**]** *(xi)* issue guidelines for the collection of information by the Department that the Director determines necessary to develop transportation statistics and carry out modeling, economic assessment, and program assessment activities to ensure that such information is accurate, reliable, relevant, uniform, and in a form that permits systematic analysis by the Department;

[(ix)**]** *(xii)* review and report to the Secretary on the sources and reliability of—

(I) the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103-62;107 Stat. 285); and

(II) at the request of the Secretary, any other data collected or statistical information published by the heads of the operating administrations of the Department; and

[(x)**]** *(xiii)* ensure that the statistics published under this section are readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

(c) ACCESS TO FEDERAL DATA.—In carrying out subsection (b)(3)(B)(ii), the Director shall be given access to all safety data that the Director determines necessary to carry out that subsection that is held by the Department or any other Federal agency upon

written request and subject to any statutory or regulatory restrictions.

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§ 6311. Research and development grants

The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

(1) investigation of the subjects described in section 6302(b)(3)(B)(vi);

(2) research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

(3) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

(4) development of electronic clearinghouses of transportation data and related information, as part of the Library; and

(5) development and improvement of methods for sharing geographic data, in support of the database under [section 6310] *section 6309* and the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order).

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SUBTITLE IV—INTERSTATE TRANSPORTATION

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PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

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CHAPTER 139—REGISTRATION

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§ 13902. Registration of motor carriers

(a) MOTOR CARRIER GENERALLY.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation 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 only if the Secretary determines 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 successor regulations), for transportation provided by an over-the-road bus; and

(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

(B) has been issued a USDOT number under section 31134;

(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, if the relationship occurred in the 3-year period preceding the date of the filing of the application for registration; and

(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.

(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); and

(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage.

(3) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider, and to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

(4) WITHHOLDING.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration.

(5) LIMITATION ON COMPLAINTS.—The Secretary may hear a complaint from any person concerning a registration under this

subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and 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), the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection. In the case of a registration for the transportation of household goods as a household goods motor carrier, the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.

(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) MOTOR CARRIERS OF PASSENGERS.—

(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

(i) the recipient meets the requirements of subsection (a)(1); and

(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

(4) PREEMPTION OF STATE REGULATION REGARDING CERTAIN SERVICE.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

(5) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Subject to section 14501(a), any intrastate transportation authorized by this subsection shall be treated as transportation subject to jurisdiction under subchapter I of chapter 135 until such time as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation, but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

(6) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

(7) SUSPENSION OR REVOCATION.—Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

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

(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term "public recipient of governmental assistance" means—

(i) any State,

(ii) any municipality or other political subdivision of a State,

(iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,

(iv) any Indian tribe, and

(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv),

which before, on, or after January 1, 1996, received governmental assistance for the purchase or operation of any bus.

(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term "private recipient of government assistance" means any person (other than a person described in subparagraph (A)) who before, on, or after January 1, 1996, received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

(1) PREVENTION OF DISCRIMINATORY PRACTICES.—If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may—

(A) seek elimination of such practices through consultations; or

(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

(2) EQUALIZATION OF TREATMENT.—Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

(3) REMOVAL OR MODIFICATION.—The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

(4) PROTECTION OF EXISTING OPERATIONS.—Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect—

(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the United States-Mexico border as such zones were defined on December 31, 1995; or

(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous

foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

(5) PUBLICATION; COMMENT.—Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraph (1)(B) or (3), and provide an opportunity for public comment.

(6) DELEGATION TO SECRETARY.—The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

(7) 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 this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(8) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection shall not be construed as affecting the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

(d) TRANSITION RULE.—

(1) IN GENERAL.—Pending the implementation of the rulemaking required by section 13908, the Secretary may register a person under this section—

(A) as a motor common carrier if such person would have been issued a certificate to provide transportation as a motor common carrier under this subtitle on December 31, 1995; and

(B) as a motor contract carrier if such person would have been issued a permit to provide transportation as a motor contract carrier under this subtitle on such day.

(2) DEFINITIONS.—In this subsection, the terms "motor common carrier" and "motor contract carrier" have the meaning such terms had under section 10102 as such section was in effect on December 31, 1995.

(3) TERMINATION.—This subsection shall cease to be in effect on the transition termination date.

(e) PENALTIES FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—In addition to other penalties available under law, motor carriers that fail to register their operations as required by this section or that operate beyond the scope of their registrations may be subject to the following penalties:

(1) OUT-OF-SERVICE ORDERS.—If, upon inspection or investigation, the Secretary determines that a motor carrier providing transportation requiring registration under this section is operating without a registration or beyond the scope of its registration, the Secretary may order the motor carrier oper-

ations out-of-service. Subsequent to the issuance of the out-of-service order, the Secretary shall provide an opportunity for review in accordance with section 554 of title 5, United States Code; except that such review shall occur not later than 10 days after issuance of such order.

(2) PERMISSION FOR OPERATIONS.—A person domiciled in a country contiguous to the United States with respect to which an action under subsection (c)(1)(A) or (c)(1)(B) is in effect and providing transportation for which registration is required under this section shall maintain evidence of such registration in the motor vehicle when the person is providing the transportation. The Secretary shall not permit the operation in interstate commerce in the United States of any motor vehicle in which there is not a copy of the registration issued pursuant to this section.

(f) MODIFICATION OF CARRIER REGISTRATION.—

(1) IN GENERAL.—On and after the transition termination date, the Secretary—

(A) may not register a motor carrier under this section as a motor common carrier or a motor contract carrier;

(B) shall register applicants under this section as motor carriers; and

(C) shall issue any motor carrier registered under this section after that date a motor carrier certificate of registration that specifies whether the holder of the certificate may provide transportation of persons, household goods, other property, or any combination thereof.

(2) PRE-EXISTING CERTIFICATES AND PERMITS.—The Secretary shall redesignate any motor carrier certificate or permit issued before the transition termination date as a motor carrier certificate of registration. On and after the transition termination date, any person holding a motor carrier certificate of registration redesignated under this paragraph may provide both contract carriage (as defined in section 13102(4)(B)) and transportation under terms and conditions meeting the requirements of section 13710(a)(1). The Secretary may not, pursuant to any regulation or form issued before or after the transition termination date, make any distinction among holders of motor carrier certificates of registration on the basis of whether the holder would have been classified as a common carrier or as a contract carrier under—

(A) subsection (d) of this section, as that section was in effect before the transition termination date; or

(B) any other provision of this title that was in effect before the transition termination date.

(3) TRANSITION TERMINATION DATE DEFINED.—In this section, the term "transition termination date" means the first day of January occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.

(g) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term "motor carrier" includes foreign motor private carriers.

(h) UPDATE OF REGISTRATION.—

(1) IN GENERAL.—The Secretary shall require a registrant to update its registration under this section not later than 30

days after a change in the registrant's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(2) MOTOR CARRIERS OF PASSENGERS.—In addition to the requirements of paragraph (1), 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 this section.

(i) 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 under regulations issued by the Secretary if the originating carrier—

(i) physically transports the cargo at some point; and

(ii) retains liability for the cargo and for payment of interchanged carriers; and

(2) may not arrange transportation *except as* described in paragraph (1) unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as applicable.

§ 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 determines that the person—

(1) has sufficient experience to qualify the person 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) DURATION.—A registration issued under subsection (a) shall only remain in effect while the freight forwarder is in compliance with section 13906(c).

(c) EXPERIENCE OR TRAINING REQUIREMENT.—Each 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 the individual's knowledge of related rules, regulations, and industry practices.

(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—

[(1) IN GENERAL.—]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.

(e) UPDATE OF REGISTRATION.—The Secretary shall require a freight forwarder to update its registration under this section not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

* * * * * * *

§ 13905. Effective periods of registration

(a) PERSON HOLDING ICC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder, or broker under this title, as in effect on December 31, 1995, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

(b) PERSON REGISTERED WITH SECRETARY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2005, but not having registered pursuant to section 13902(a), shall be treated, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a.

(2) EXCLUSIVELY INTRASTATE OPERATORS.—Paragraph (1) does not apply to a motor carrier or motor private carrier (including a transporter of waste or recyclable materials) engaged exclusively in intrastate transportation operations.

(c) EFFECTIVE PERIOD.—

(1) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904—

(A) shall be effective beginning on the date specified by the Secretary; and

(B) shall remain in effect for such period as the Secretary determines appropriate by regulation.

(2) REISSUANCE OF REGISTRATION.—

(A) REQUIREMENT.—Not later than 4 years after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter.

(B) EFFECTIVE PERIOD.—Each registration renewal under subparagraph (A)—

(i) shall expire not later than 5 years after the date of such renewal; and

(ii) may be further renewed as provided under this chapter.

(d) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—

(1) APPLICATIONS.—On application of the registrant, the Secretary may 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) suspend, amend, or revoke any part of the registration of a motor carrier, foreign motor carrier, foreign motor private 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 suc-

cessor regulations), for transportation provided by an over-the-road bus; or

(iii) a condition of its registration;

(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder for failure—

(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

(iii) for failure to obey a subpoena issued by the Secretary;

(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder 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; or

(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder if **[**the Secretary finds that—**]**

[(i) the motor carrier,**]** *the Secretary finds that the motor carrier,* broker, or freight forwarder does not disclose any relationship through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904.

(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.

(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 (2)(B).

(e) PROCEDURE.—Except on application of the registrant, or if the Secretary determines that the registrant 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) the Secretary has issued an order to the registrant under section 14701 requiring compliance with this part, a regulation of the Secretary, or a condition of the registration; and

(2) the registrant willfully does not comply with the order for a period of 30 days.

(f) EXPEDITED PROCEDURE.—

(1) PROTECTION OF SAFETY.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(e) or 13906 or an order or regulation of the Secretary prescribed under those sections; and

(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144.

(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.

(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.

§ 13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders

(a) MOTOR CARRIER REQUIREMENTS.—

(1) LIABILITY INSURANCE REQUIREMENT.—The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139, and the laws of the State or States in which the registrant is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

(2) SECURITY REQUIREMENT.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2005, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) shall file with the Secretary a bond, insurance policy, or other type of security ap-

proved by the Secretary, in an amount not less than required by sections 31138 and 31139.

(3) AGENCY REQUIREMENT.—A motor carrier shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection. This paragraph only applies to a foreign motor private carrier and foreign motor carrier operating in the United States to the extent that such carrier is providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

(4) TRANSPORTATION INSURANCE.—The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

(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) 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 any case in which the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines that 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 the date on which the notice was received; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

(C) COSTS AND ATTORNEY'S 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 attorney's fees.

(3) MINIMUM FINANCIAL SECURITY.—Each broker subject to the requirements of this section shall provide financial security of $75,000 for purposes of this subsection, 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 Website 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 that person 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 of the United States may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation pre-

scribed 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 provider broker financial security for 3 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.

(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, other financial security, or a combination of such instruments, 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 under subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, other financial security, or a combination of such instruments, 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 not be accepted by the Secretary unless 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—

(I) 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

(II) 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 ATTORNEY'S 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 attorney's 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 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 bodily injury to, or death of, an individual, or 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 while 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 $75,000, 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 its available financial security 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 freight forwarder financial security for 3 years (9) Deduction of costs prohibited

(d) TYPE OF INSURANCE.—The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of January 1, 1996, shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

(e) NOTICE OF CANCELLATION OF INSURANCE.—The Secretary shall issue regulations requiring the submission to the Secretary of

notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke *or suspend* the registration of any carrier or broker after the effective date of the cancellation.

(f) FORM OF ENDORSEMENT.—The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

* * * * * * *

CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

§ 14901. General civil penalties

(a) REPORTING AND RECORDKEEPING.—A person required to make a report to the Secretary or the Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 or transportation by a foreign carrier registered under section 13902, or an officer, agent, or employee of that person that—

(1) does not make the report;

(2) does not specifically, completely, and truthfully answer the question;

(3) does not make, prepare, or preserve the record in the form and manner prescribed;

(4) does not comply with section 13901; or

(5) does not comply with section 13902(c);

is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day the violation continues; except that, in the case of a person or an officer, agent, or employee of such person, that does not comply with section 13901 or section 13902(c) of this title, the amount of the civil penalty shall not be less than $10,000 for each violation, or $25,000 for each violation relating to providing transportation of passengers.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—A person subject to jurisdiction under subchapter I of chapter 135, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not less than $20,000, but not to exceed $40,000 for each violation.

(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

(d) PROTECTION OF HOUSEHOLD GOODS SHIPPERS.—

(1) IN GENERAL.—If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.

(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 or provides broker services for such transportation without being registered under chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.

(e) VIOLATION RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.—Any person that knowingly engages in or knowingly authorizes an agent or other person—

(1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 which evidence the weight of a shipment; or

(2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment;

is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

(f) VENUE.—Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which—

(1) the carrier or broker has its principal office;

(2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred;

(3) the violation occurred; or

(4) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

(g) BUSINESS ENTERTAINMENT EXPENSES.—

(1) IN GENERAL.—Any business entertainment expense incurred by a water carrier providing transportation subject to this part shall not constitute a violation of this part if that ex-

pense would not be unlawful if incurred by a person not subject to this part.

(2) COST OF SERVICE.—Any business entertainment expense subject to paragraph (1) that is paid or incurred by a water carrier providing transportation subject to this part shall not be taken into account in determining the cost of service or the rate base for purposes of section 13702.

(h) SETTLEMENT OF [HOUSEHOLD GOODS] CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.

* * * * * * *

[SEC. 14916. UNLAWFUL BROKERAGE ACTIVITIES.]

§ 14916. Unlawful brokerage activities

(a) PROHIBITED ACTIVITIES.—A person may provide interstate brokerage services as a broker only if that 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) or an ocean freight forwarder (as defined in section 40102 of title 46) when arranging for inland transportation as part of an international through movement involving ocean transportation between the United States and a foreign port;

(2) a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations, only to the extent that the customs broker is engaging in a movement under a customs bond or in a transaction involving customs business, as defined by section 111.1 of title 19, Code of Federal Regulations; or

(3) an indirect air carrier holding a Standard Security Program approved by the Transportation Security Administration, only to the extent that the indirect air carrier is engaging in the activities as an air carrier as defined in section 40102(2) or in the activities defined in section 40102(3).

(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

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PART A—SAFETY

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CHAPTER 201—GENERAL

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SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

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§ 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] *90 days after the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015*, 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 revised plan for implementing* a positive train control system by [December 31, 2015] *December 31, 2018*, 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;

(B) its main line over which poison- or toxic-by-inhalation hazardous materials, as defined in [parts] *sections* 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations, are transported; and

(C) such other tracks as the Secretary may prescribe by regulation or order.

[(2) IMPLEMENTATION.—The plan shall describe how it will provide for interoperability of the system with movements of trains of other railroad carriers over its lines and shall, to the extent practical, implement the system in a manner that addresses areas of greater risk before areas of lesser risk. The railroad carrier shall implement a positive train control system in accordance with the plan.]

(2) IMPLEMENTATION.—

(A) CONTENTS OF REVISED PLAN.—A revised plan required under paragraph (1) shall—

(i) describe—

(I) how the positive train control system will provide for interoperability of the system with the movements of trains of other railroad carriers over its lines; and

(II) how, to the extent practical, the positive train control system will be implemented in a manner that addresses areas of greater risk before areas of lesser risk;

(ii) comply with the positive train control system implementation plan content requirements under section 236.1011 of title 49, Code of Federal Regulations; and

(iii) provide—

(I) the calendar year or years in which spectrum will be acquired and will be available for use in each area as needed for positive train control system implementation, if such spectrum is not already acquired and available for use;

(II) the total amount of positive train control system hardware that will be installed for implementation, with totals separated by each major hardware category;

(III) the total amount of positive train control system hardware that will be installed by the end of each calendar year until the positive train control system is implemented, with totals separated by each hardware category;

(IV) the total number of employees required to receive training under the applicable positive train control system regulations;

(V) the total number of employees that will receive the training, as required under the applicable positive train control system regulations, by the end of each calendar year until the positive train control system is implemented;

(VI) a summary of any remaining technical, programmatic, operational, or other challenges to the implementation of a positive train control system, including challenges with—

(aa) availability of public funding;

(bb) interoperability;

(cc) spectrum;

(dd) software;

(ee) permitting; and

(ff) testing, demonstration, and certification; and

(VII) a schedule and sequence for implementing a positive train control system by the deadline established under paragraph (1).

(B) ALTERNATIVE SCHEDULE AND SEQUENCE.—Notwithstanding the implementation deadline under paragraph (1) and in lieu of a schedule and sequence under paragraph (2)(A)(iii)(VII), a railroad carrier or other entity subject to paragraph (1) may include in its revised plan an alternative schedule and sequence for implementing a positive train control system, subject to review under paragraph (3). Such schedule and sequence shall provide for implementation of a positive train control system as soon as practicable, but not later than the date that is 24 months after the implementation deadline under paragraph (1).

(C) AMENDMENTS.—A railroad carrier or other entity subject to paragraph (1) may file a request to amend a revised plan, including any alternative schedule and sequence, as applicable, in accordance with section 236.1021 of title 49, Code of Federal Regulations.

(D) COMPLIANCE.—A railroad carrier or other entity subject to paragraph (1) shall implement a positive train control system in accordance with its revised plan, including any amendments or any alternative schedule and sequence approved by the Secretary under paragraph (3).

(3) SECRETARIAL REVIEW.—

(A) NOTIFICATION.—A railroad carrier or other entity that submits a revised plan under paragraph (1) and proposes an alternative schedule and sequence under paragraph (2)(B) shall submit to the Secretary a written notification when such railroad carrier or other entity is prepared for review under subparagraph (B).

(B) CRITERIA.—Not later than 90 days after a railroad carrier or other entity submits a notification under subparagraph (A), the Secretary shall review the alternative schedule and sequence submitted pursuant to paragraph (2)(B) and determine whether the railroad carrier or other entity has demonstrated, to the satisfaction of the Secretary, that such carrier or entity has—

(i) installed all positive train control system hardware consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(II) on or before the implementation deadline under paragraph (1);

(ii) acquired all spectrum necessary for implementation of a positive train control system, consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(I) on or before the implementation deadline under paragraph (1);

(iii) completed employee training required under the applicable positive train control system regulations;

(iv) included in its revised plan an alternative schedule and sequence for implementing a positive train control system as soon as practicable, pursuant to paragraph (2)(B);

(v) certified to the Secretary in writing that it will be in full compliance with the requirements of this section on or before the date provided in an alternative schedule and sequence, subject to approval by the Secretary;

(vi) in the case of a Class I railroad carrier and Amtrak, implemented a positive train control system or initiated revenue service demonstration on the majority of territories, such as subdivisions or districts, or route miles that are owned or controlled by such carrier and required to have operations governed by a positive train control system; and

(vii) in the case of any other railroad carrier or other entity not subject to clause (vi)—

(I) initiated revenue service demonstration on at least 1 territory that is required to have operations governed by a positive train control system; or

(II) met any other criteria established by the Secretary.

(C) DECISION.—

(i) IN GENERAL.—Not later than 90 days after the receipt of the notification from a railroad carrier or other entity under subparagraph (A), the Secretary shall—

(I) approve an alternative schedule and sequence submitted pursuant to paragraph (2)(B) if the railroad carrier or other entity meets the criteria in subparagraph (B); and

(II) notify in writing the railroad carrier or other entity of the decision.

(ii) DEFICIENCIES.—Not later than 45 days after the receipt of the notification under subparagraph (A), the Secretary shall provide to the railroad carrier or other entity a written notification of any deficiencies that would prevent approval under clause (i) and provide the railroad carrier or other entity an opportunity to correct deficiencies before the date specified in such clause.

(D) REVISED DEADLINES.—

(i) PENDING REVIEWS.—For a railroad carrier or other entity that submits a notification under subparagraph (A), the deadline for implementation of a positive train control system required under paragraph (1) shall be extended until the date on which the Secretary approves or disapproves the alternative schedule and sequence, if such date is later than the implementation date under paragraph (1).

(ii) ALTERNATIVE SCHEDULE AND SEQUENCE DEADLINE.—If the Secretary approves a railroad carrier or other entity's alternative schedule and sequence under subparagraph (C)(i), the railroad carrier or other entity's deadline for implementation of a positive train control system required under paragraph (1) shall be the date specified in that railroad carrier or other entity's alternative schedule and sequence. The Secretary may not approve a date for implementation that is later than 24 months from the deadline in paragraph (1).

(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance and guidance to railroad carriers in developing the plans required under subsection (a).

[(c) REVIEW AND APPROVAL.—Not later than 90 days after the Secretary receives a plan, 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.

[(d) REPORT.—Not later than December 31, 2012, 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.

[(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 under subsection (a).]

(c) PROGRESS REPORTS AND REVIEW.—

(1) PROGRESS REPORTS.—Each railroad carrier or other entity subject to subsection (a) shall, not later than March 31, 2016, and annually thereafter until such carrier or entity has completed implementation of a positive train control system, submit to the Secretary a report on the progress toward implementing such systems, including—

(A) the information on spectrum acquisition provided pursuant to subsection (a)(2)(A)(iii)(I);

(B) the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii), by territory, if applicable;

(C) the extent to which the railroad carrier or other entity is complying with the implementation schedule under subsection (a)(2)(A)(iii)(VII) or subsection (a)(2)(B);

(D) any update to the information provided under subsection (a)(2)(A)(iii)(VI);

(E) for each entity providing regularly scheduled intercity or commuter rail passenger transportation, a description of the resources identified and allocated to implement a positive train control system;

(F) for each railroad carrier or other entity subject to subsection (a), the total number of route miles on which a positive train control system has been initiated for revenue service demonstration or implemented, as compared to the total number of route miles required to have a positive train control system under subsection (a); and

(G) any other information requested by the Secretary.

(2) PLAN REVIEW.—The Secretary shall at least annually conduct reviews to ensure that railroad carriers or other entities are complying with the revised plan submitted under subsection (a), including any amendments or any alternative schedule and sequence approved by the Secretary. Such railroad carriers or other entities shall provide such information as the Secretary determines necessary to adequately conduct such reviews.

(3) PUBLIC AVAILABILITY.—Not later than 60 days after receipt, the Secretary shall make available to the public on the Internet Web site of the Department of Transportation any report submitted pursuant to paragraph (1) or subsection (d), but may exclude, as the Secretary determines appropriate—

(A) proprietary information; and

(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations.

(d) REPORT TO CONGRESS.—Not later than July 1, 2018, 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 progress of each railroad carrier or other entity subject to subsection (a) in implementing a positive train control system.

(e) ENFORCEMENT.—The Secretary is authorized to assess civil penalties pursuant to chapter 213 for—

(1) a violation of this section;

(2) the failure to submit or comply with the revised plan required under subsection (a), including the failure to comply with the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii) and the spectrum acquisition dates provided pursuant to subsection (a)(2)(A)(iii)(I);

(3) failure to comply with any amendments to such revised plan pursuant to subsection (a)(2)(C); and

(4) the failure to comply with an alternative schedule and sequence submitted under subsection (a)(2)(B) and approved by the Secretary under subsection (a)(3)(C).

(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.

(g) REGULATIONS.—**[**The Secretary**]**

(1) IN GENERAL.—The Secretary shall prescribe regulations or issue orders necessary to implement this section, including regulations specifying in appropriate technical detail the essential functionalities of positive train control systems, and the means by which those systems will be qualified.

(2) CONFORMING REGULATORY AMENDMENTS.—Immediately after the date of the enactment of the Positive Train Control Enforcement and Implementation Act of 2015, the Secretary—

(A) shall remove or revise the date-specific deadlines in the regulations or orders implementing this section to the extent necessary to conform with the amendments made by such Act; and

(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the amendments made by such Act.

(3) REVIEW.—Nothing in the Positive Train Control Enforcement and Implementation Act of 2015, or the amendments made by such Act, shall be construed to require the Secretary to issue regulations to implement such Act or amendments other than the regulatory amendments required by paragraph (2) and subsection (k).

(h) CERTIFICATION.—**[**The Secretary**]**

(1) IN GENERAL.—The Secretary shall not permit the installation of any positive train control system or component in revenue service unless the Secretary has certified that any such system or component has been approved through the approval process set forth in part 236 of title 49, Code of Federal Regulations, and complies with the requirements of that part.

(2) PROVISIONAL OPERATION.—Notwithstanding the requirements of paragraph (1), the Secretary may authorize a railroad carrier or other entity to commence operation in revenue service of a positive train control system or component to the extent nec-

essary to enable the safe implementation and operation of a positive train control system in phases.

(i) DEFINITIONS.—In this section:

(1) EQUIVALENT OR GREATER LEVEL OF SAFETY.—The term "equivalent or greater level of safety" means the compliance of a railroad carrier with—

(A) appropriate operating rules in place immediately prior to the use or implementation of such carrier's positive train control system, except that such rules may be changed by such carrier to improve safe operations; and

(B) all applicable safety regulations, except as specified in subsection (j).

(2) HARDWARE.—The term "hardware" means a locomotive apparatus, a wayside interface unit (including any associated legacy signal system replacements), switch position monitors needed for a positive train control system, physical back office system equipment, a base station radio, a wayside radio, a locomotive radio, or a communication tower or pole.

[(1)**]** *(3)* INTEROPERABILITY.—The term "interoperability" means the ability to control locomotives of the host railroad and tenant railroad to communicate with and respond to the positive train control system, including uninterrupted movements over property boundaries.

[(2)**]** *(4)* MAIN LINE.—The term "main line" means a segment or route of railroad tracks over which 5,000,000 or more gross tons of railroad traffic is transported annually, except that—

(A) the Secretary may, through regulations under subsection (g), designate additional tracks as main line as appropriate for this section; and

(B) for intercity rail passenger transportation or commuter rail passenger transportation routes or segments over which limited or no freight railroad operations occur, the Secretary shall define the term "main line" by regulation.

[(3)**]** *(5)* POSITIVE TRAIN CONTROL SYSTEM.—The term "positive train control system" means a system designed to prevent 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 position.

(j) EARLY ADOPTION.—

(1) OPERATIONS.—From the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015 through the 1-year period beginning on the date on which the last Class I railroad carrier's positive train control system subject to subsection (a) is certified by the Secretary under subsection (h)(1) of this section and is implemented on all of that railroad carrier's lines required to have operations governed by a positive train control system, any railroad carrier, including any railroad carrier that has its positive train control system certified by the Secretary, shall not be subject to the operational restrictions set forth in sections 236.567 and 236.1029 of title 49, Code of Federal Regulations, that would apply where a controlling locomotive that is operating in, or is to be operated in, a positive train control-equipped track segment experiences a positive train control system failure, a positive train control op-

erated consist is not provided by another railroad carrier when provided in interchange, or a positive train control system otherwise fails to initialize, cuts out, or malfunctions, provided that such carrier operates at an equivalent or greater level of safety than the level achieved immediately prior to the use or implementation of its positive train control system.

(2) SAFETY ASSURANCE.—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall make reasonable efforts to determine the cause of the failure and adjust, repair, or replace any faulty component causing the system failure in a timely manner.

(3) PLANS.—The positive train control safety plan for each railroad carrier or other entity shall describe the safety measures, such as operating rules and actions to comply with applicable safety regulations, that will be put in place during any system failure.

(4) NOTIFICATION.—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall submit a notification to the appropriate regional office of the Federal Railroad Administration within 7 days of the system failure, or under alternative location and deadline requirements set by the Secretary, and include in the notification a description of the safety measures the affected railroad carrier or other entity has in place.

(k) SMALL RAILROADS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall amend section 236.1006(b)(4)(iii)(B) of title 49, Code of Federal Regulations (relating to equipping locomotives for applicable Class II and Class III railroads operating in positive train control territory) to extend each deadline under such section by 3 years.

(l) REVENUE SERVICE DEMONSTRATION.—When a railroad carrier or other entity subject to (a)(1) notifies the Secretary it is prepared to initiate revenue service demonstration, it shall also notify any applicable tenant railroad carrier or other entity subject to subsection (a)(1).

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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.

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[31102. Grants to States.
[31103. United States Government's share of costs.
[31104. Availability of amounts.]
31102. Motor carrier safety assistance program.
31103. Commercial motor vehicle operators grant program.
31104. Authorization of appropriations.

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[31107. Border enforcement grants.]

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[31109. Performance and registration information system management.]
31110. Authorization of appropriations.

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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) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—

[(1) PROGRAM GOAL.—The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

[(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

[(B) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

[(C) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

[(D) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.

[(2) 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 expenditure 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 demonstrate 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 appropriate Federal Motor Carrier Safety Administration systems and other information systems by all appropriate jurisdictions receiving Motor Carrier Safety Assistance Program funding;

[(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 enforce-

ment 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 and dedicated sufficient resources to 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;

[(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.; and

[(Y) ensures that the State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.

[(3) 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.

[(4) MAINTENANCE OF EFFORT.—

[(A) IN GENERAL.—A plan submitted by a State under paragraph (2) shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

[(B) AVERAGE LEVEL OF STATE EXPENDITURES.—In estimating the average level of State expenditure under subparagraph (A), 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 State matching amounts used to receive Government financing under this subsection.

[(C) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements of this paragraph for 1 fiscal year, if the Secretary determines that a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the State motor carrier safety assistance program agency.

[(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.

[§ 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)(2)(E) of this title may not be included as part of the share not provided by the United States Government. Amounts generated under the unified carrier registra-

tion 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.]

§ 31102. Motor carrier safety assistance program

(a) IN GENERAL.—The Secretary of Transportation shall administer a motor carrier safety assistance program funded under section 31104.

(b) GOAL.—The goal of the program is to ensure that the Secretary, States, local governments, other political jurisdictions, federally recognized Indian tribes, and other persons work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

(1) making targeted investments to promote safe commercial motor vehicle transportation, including the transportation of passengers and hazardous materials;

(2) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and in fatalities resulting from such crashes;

(3) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

(4) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.

(c) STATE PLANS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall prescribe procedures for a State to submit a multiple-year plan, and annual updates thereto, under which the State agrees to assume responsibility for improving motor carrier safety by adopting and enforcing State regulations, standards, and orders that are compatible with the regulations, standards, and orders of the Federal Government on commercial motor vehicle safety and hazardous materials transportation safety.

(2) CONTENTS.—The Secretary shall approve a State plan if the Secretary determines that the plan is adequate to comply with the requirements of this section, and the plan—

(A) implements performance-based activities, including deployment and maintenance of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;

(B) designates a lead State commercial motor vehicle safety agency responsible for administering the plan throughout the State;

(C) contains satisfactory assurances that the lead State commercial motor vehicle safety agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

(D) contains satisfactory assurances that the State will devote adequate resources to the administration of the plan and enforcement of the regulations, standards, and orders;

(E) provides a right of entry and inspection to carry out the plan;

(F) provides that all reports required under this section be available to the Secretary on request;

(G) provides that the lead State commercial motor vehicle safety agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations that the Secretary prescribes;

(H) requires all registrants of commercial motor vehicles to demonstrate knowledge of applicable safety regulations, standards, and orders of the Federal Government and the State;

(I) provides that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standards through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

(J) ensures that activities described in subsection (h), if financed through grants to the State made under this section, will not diminish the effectiveness of the development and implementation of the programs to improve motor carrier, commercial motor vehicle, and driver safety as described in subsection (b);

(K) ensures that the lead State commercial motor vehicle safety agency will coordinate the plan, data collection, and information systems with the State highway safety improvement program required under section 148(c) of title 23;

(L) ensures participation in appropriate Federal Motor Carrier Safety Administration information technology and data systems and other information systems by all appropriate jurisdictions receiving motor carrier safety assistance program funding;

(M) ensures that information is exchanged among the States in a timely manner;

(N) 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;

(O) provides satisfactory assurances that the State will address 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) when conducted with an appropriate commercial motor vehicle inspection, criminal interdiction activities, and appropriate strategies for carrying out those interdiction activities, including interdiction activities that affect the transportation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) and listed in part 1308 of title 21, Code of Federal Regulations, as updated and republished from time to time) by any occupant of a commercial motor vehicle;

(P) provides that the State has established and dedicated sufficient resources to a program to ensure that—

(i) the State collects and reports to the Secretary accurate, complete, and timely motor carrier safety data; and

(ii) the State participates in a national motor carrier safety data correction system prescribed by the Secretary;

(Q) ensures that the State will cooperate in the enforcement of financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued under those sections;

(R) ensures consistent, effective, and reasonable sanctions;

(S) ensures that roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel;

(T) provides that the State will include in the training manuals for the licensing examination to drive noncommercial motor vehicles and commercial motor vehicles information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

(U) provides 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 without a registration issued under those sections or to be operated beyond the scope of the motor carrier's registration;

(V) 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;

(W) except in the case of an imminent hazard or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a bus station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop (excluding a weigh station);

(X) ensures that the State will transmit to its roadside inspectors notice of each Federal exemption granted under section 31315(b) of this title and sections 390.23 and 390.25 of title 49, Code of Federal Regulations, and provided to the State by the Secretary, including the name of the person

that received the exemption and any terms and conditions that apply to the exemption;

(Y) except as provided in subsection (d), provides that the State—

(i) will conduct safety audits of interstate and, at the State's discretion, intrastate new entrant motor carriers under section 31144(g); and

(ii) if the State authorizes a third party to conduct safety audits under section 31144(g) on its behalf, the State verifies the quality of the work conducted and remains solely responsible for the management and oversight of the activities;

(Z) provides that the State agrees to fully participate in the performance and registration information systems management under section 31106(b) not later than October 1, 2020, by complying with the conditions for participation under paragraph (3) of that section, or demonstrates to the Secretary an alternative approach for identifying and immobilizing a motor carrier with serious safety deficiencies in a manner that provides an equivalent level of safety;

(AA) in the case of a State that shares a land border with another country, provides that the State—

(i) will conduct a border commercial motor vehicle safety program focusing on international commerce that includes enforcement and related projects; or

(ii) will forfeit all funds calculated by the Secretary based on border-related activities if the State declines to conduct the program described in clause (i) in its plan; and

(BB) in the case of a State that meets the other requirements of this section and agrees to comply with the requirements established in subsection (l)(3), provides that the State may fund operation and maintenance costs associated with innovative technology deployment under subsection (l)(3) with motor carrier safety assistance program funds authorized under section 31104(a)(1).

(3) PUBLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall publish each approved State multiple-year plan, and each annual update thereto, on a publically accessible Internet Web site of the Department of Transportation not later than 30 days after the date the Secretary approves the plan or update.

(B) LIMITATION.—Before publishing an approved State multiple-year plan or annual update under subparagraph (A), the Secretary shall redact any information identified by the State that, if disclosed—

(i) would reasonably be expected to interfere with enforcement proceedings; or

(ii) would reveal enforcement techniques or procedures that would reasonably be expected to risk circumvention of the law.

(d) EXCLUSION OF U.S. TERRITORIES.—The requirement that a State conduct safety audits of new entrant motor carriers under sub-

section (c)(2)(Y) does not apply to a territory of the United States unless required by the Secretary.

(e) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws, including regulations, with Federal motor carrier safety regulations to be enforced under subsections (b) and (c). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish motor vehicle safety.

(f) MAINTENANCE OF EFFORT.—

(1) BASELINE.—Except as provided under paragraphs (2) and (3) and in accordance with section 5106 of the Surface Transportation Reauthorization and Reform Act of 2015, a State plan under subsection (c) shall provide that the total expenditure of amounts of the lead State commercial motor vehicle safety agency responsible for administering the plan will be maintained at a level each fiscal year that is at least equal to—

(A) the average level of that expenditure for fiscal years 2004 and 2005; or

(B) the level of that expenditure for the year in which the Secretary implements a new allocation formula under section 5106 of the Surface Transportation Reauthorization and Reform Act of 2015.

(2) ADJUSTED BASELINE AFTER FISCAL YEAR 2017.—At the request of a State, the Secretary may evaluate additional documentation related to the maintenance of effort and may make reasonable adjustments to the maintenance of effort baseline after the year in which the Secretary implements a new allocation formula under section 5106 of the Surface Transportation Reauthorization and Reform Act of 2015, and this adjusted baseline will replace the maintenance of effort requirement under paragraph (1).

(3) WAIVERS.—At the request of a State, the Secretary may waive or modify the requirements of this subsection for a total of 1 fiscal year if the Secretary determines that the waiver or modification is reasonable, based on circumstances described by the State, to ensure the continuation of commercial motor vehicle enforcement activities in the State.

(4) LEVEL OF STATE EXPENDITURES.—In estimating the average level of a State's expenditures under paragraph (1), the Secretary—

(A) may allow the State to exclude State expenditures for federally sponsored demonstration and pilot programs and strike forces;

(B) may allow the State to exclude expenditures for activities related to border enforcement and new entrant safety audits; and

(C) shall require the State to exclude State matching amounts used to receive Federal financing under section 31104.

(g) USE OF UNIFIED CARRIER REGISTRATION FEES AGREEMENT.—Amounts generated under section 14504a and received by a State and used for motor carrier safety purposes may be included as part

of the State's match required under section 31104 or maintenance of effort required by subsection (f).

(h) USE OF GRANTS TO ENFORCE OTHER LAWS.—When approved as part of a State's plan under subsection (c), the State may use motor carrier safety assistance program funds received under this section—

(1) if the activities are carried out in conjunction with an appropriate inspection of a commercial motor vehicle to enforce Federal or State commercial motor vehicle safety regulations, for—

(A) enforcement of commercial motor vehicle size and weight limitations at locations, excluding fixed-weight facilities, such as near 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 and enforcement actions taken as a result of criminal activity, including the trafficking of human beings, in a commercial motor vehicle or by any occupant, including the operator, of the commercial motor 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—

(A) 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 2004 and 2005; and

(B) the State does not use more than 10 percent of the basic amount the State receives under a grant awarded under section 31104(a)(1) for enforcement activities relating to noncommercial motor vehicles necessary to promote the safe operation of commercial motor vehicles unless the Secretary determines that a higher percentage will result in significant increases in commercial motor vehicle safety.

(i) EVALUATION OF PLANS AND AWARD OF GRANTS.—

(1) AWARDS.—The Secretary shall establish criteria for the application, evaluation, and approval of State plans under this section. Subject to subsection (j), the Secretary may allocate the amounts made available under section 31104(a)(1) among the States.

(2) OPPORTUNITY TO CURE.—If the Secretary disapproves a plan under this section, the Secretary shall give the State a written explanation of the reasons for disapproval and allow the State to modify and resubmit the plan for approval.

(j) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary, by regulation, shall prescribe allocation criteria for funds made available under section 31104(a)(1).

(2) ANNUAL ALLOCATIONS.—On October 1 of each fiscal year, or as soon as practicable thereafter, and after making a deduction under section 31104(c), the Secretary shall allocate amounts made available under section 31104(a)(1) to carry out this section for the fiscal year among the States with plans approved under this section in accordance with the criteria prescribed under paragraph (1).

(3) ELECTIVE ADJUSTMENTS.—Subject to the availability of funding and notwithstanding fluctuations in the data elements used by the Secretary to calculate the annual allocation amounts, after the creation of a new allocation formula under section 5106 of the Surface Transportation Reauthorization and Reform Act of 2015, the Secretary may not make elective adjustments to the allocation formula that decrease a State's Federal funding levels by more than 3 percent in a fiscal year. The 3 percent limit shall not apply to the withholding provisions of subsection (k).

(k) PLAN MONITORING.—

(1) IN GENERAL.—On the basis of reports submitted by the lead State agency responsible for administering a State plan approved under this section and an investigation by the Secretary, the Secretary shall periodically evaluate State implementation of and compliance with the State plan.

(2) WITHHOLDING OF FUNDS.—

(A) DISAPPROVAL.—If, after notice and an opportunity to be heard, the Secretary finds that a State plan previously approved under this section is not being followed or has become inadequate to ensure enforcement of State regulations, standards, or orders described in subsection (c)(1), or the State is otherwise not in compliance with the requirements of this section, the Secretary may withdraw approval of the State plan and notify the State. Upon the receipt of such notice, the State plan shall no longer be in effect and the Secretary shall withhold all funding to the State under this section.

(B) NONCOMPLIANCE WITHHOLDING.—In lieu of withdrawing approval of a State plan under subparagraph (A), the Secretary may, after providing notice to the State and an opportunity to be heard, withhold funding from the State to which the State would otherwise be entitled under this section for the period of the State's noncompliance. In exercising this option, the Secretary may withhold—

(i) up to 5 percent of funds during the fiscal year that the Secretary notifies the State of its noncompliance;

(ii) up to 10 percent of funds for the first full fiscal year of noncompliance;

(iii) up to 25 percent of funds for the second full fiscal year of noncompliance; and

(iv) not more than 50 percent of funds for the third and any subsequent full fiscal year of noncompliance.

(3) JUDICIAL REVIEW.—A State adversely affected by a determination under paragraph (2) may seek judicial review under chapter 7 of title 5. Notwithstanding the disapproval of a State plan under paragraph (2)(A) or the withholding of funds under

paragraph (2)(B), the State may retain jurisdiction in an administrative or a judicial proceeding that commenced before the notice of disapproval or withholding if the issues involved are not related directly to the reasons for the disapproval or withholding.

(l) HIGH PRIORITY PROGRAM.—

(1) IN GENERAL.—The Secretary shall administer a high priority program funded under section 31104 for the purposes described in paragraphs (2) and (3).

(2) ACTIVITIES RELATED TO MOTOR CARRIER SAFETY.—The Secretary may make discretionary grants to and enter into cooperative agreements with States, local governments, federally recognized Indian tribes, other political jurisdictions as necessary, and any person to carry out high priority activities and projects that augment motor carrier safety activities and projects planned in accordance with subsections (b) and (c), including activities and projects that—

(A) increase public awareness and education on commercial motor vehicle safety;

(B) target unsafe driving of commercial motor vehicles and noncommercial motor vehicles in areas identified as high risk crash corridors;

(C) improve the safe and secure movement of hazardous materials;

(D) improve safe transportation of goods and persons in foreign commerce;

(E) demonstrate new technologies to improve commercial motor vehicle safety;

(F) support participation in performance and registration information systems management under section 31106(b)—

(i) for entities not responsible for submitting the plan under subsection (c); or

(ii) for entities responsible for submitting the plan under subsection (c)—

(I) before October 1, 2020, to achieve compliance with the requirements of participation; and

(II) beginning on October 1, 2020, or once compliance is achieved, whichever is sooner, for special initiatives or projects that exceed routine operations required for participation;

(G) conduct safety data improvement projects—

(i) that complete or exceed the requirements under subsection (c)(2)(P) for entities not responsible for submitting the plan under subsection (c); or

(ii) that exceed the requirements under subsection (c)(2)(P) for entities responsible for submitting the plan under subsection (c); and

(H) otherwise improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations.

(3) INNOVATIVE TECHNOLOGY DEPLOYMENT GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish an innovative technology deployment grant program to make discretionary grants funded under section 31104(a)(2) to eligi-

ble States for the innovative technology deployment of commercial motor vehicle information systems and networks.

(B) PURPOSES.—The purposes of the program shall be—

(i) to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial motor vehicle operations, including commercial motor vehicle, commercial driver, and carrier-specific information systems and networks; and

(ii) to support and maintain commercial motor vehicle information systems and networks—

(I) to link Federal motor carrier safety information systems with State commercial motor vehicle systems;

(II) to improve the safety and productivity of commercial motor vehicles and drivers; and

(III) to reduce costs associated with commercial motor vehicle operations and Federal and State commercial motor vehicle regulatory requirements.

(C) ELIGIBILITY.—To be eligible for a grant under this paragraph, a State shall—

(i) have a commercial motor vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level that need to be refined, revised, upgraded, or built to accomplish deployment of commercial motor vehicle information systems and networks capabilities;

(ii) certify to the Secretary that its commercial motor vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—

(I) are consistent with the national intelligent transportation systems and commercial motor vehicle information systems and networks architectures and available standards; and

(II) promote interoperability and efficiency to the extent practicable; and

(iii) 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 motor vehicle information systems and networks.

(D) USE OF FUNDS.—Grant funds received under this paragraph may be used—

(i) for deployment activities and activities to develop new and innovative advanced technology solutions that support commercial motor vehicle information systems and networks;

(ii) for planning activities, including the development or updating of program or top level design plans in order to become eligible or maintain eligibility under subparagraph (C); and

(iii) for the operation and maintenance costs associated with innovative technology.

(E) SECRETARY AUTHORIZATION.—The Secretary is authorized to award a State funding for the operation and maintenance costs associated with innovative technology deployment with funds made available under sections 31104(a)(1) and 31104(a)(2).

§ 31103. Commercial motor vehicle operators grant program

(a) IN GENERAL.—The Secretary shall administer a commercial motor vehicle operators grant program funded under section 31104.

(b) PURPOSE.—The purpose of the grant program is to train individuals in the safe operation of commercial motor vehicles (as defined in section 31301).

(c) VETERANS.—In administering grants under this section, the Secretary shall award priority to grant applications for programs to train former members of the armed forces (as defined in section 101 of title 10) in the safe operation of such vehicles.

§ 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;
(8) $215,000,000 for fiscal year 2013;
(9) $218,000,000 for fiscal year 2014;
[(10) $218,000,000 for fiscal year 2015; and
[(11) $17,273,224 for the period beginning on October 1, 2015, and ending on October 29, 2015.]
(10) $218,000,000 for fiscal year 2015; and
(11) $241,480,000 for fiscal year 2016.

(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—Amounts made available under subsection (a) of this section remain available until expended. 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 released to the Secretary for reallocation.

(c) REIMBURSEMENT FOR GOVERNMENT'S SHARE OF COSTS.—Amounts made available under subsection (a) of this section shall be used to reimburse States proportionately for the United States Government's share of costs incurred.

(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant to a State under section 31102 of this title is a contractual obligation of the Government for payment of the Government's share of costs incurred by the State in developing, implementing, or developing and implementing programs to enforce commercial motor vehicle regulations, standards, and orders.

(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.

(g) PAYMENT TO STATES FOR COSTS.—Each State shall submit vouchers for costs the State incurs under this section and section 31102 of this title. The Secretary shall pay the State an amount not more than the Government share of costs incurred as of the date of the vouchers.

(h) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(a) of this title. To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocating amounts or making grants under section 153 of title 23, the Secretary shall ensure that the guidelines and standards are applied uniformly.

[(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;
[(H) $251,000,000 for fiscal year 2013;
[(I) $259,000,000 for fiscal year 2014;
[(J) $259,000,000 for fiscal year 2015; and
[(K) $20,521,858 for the period beginning on October 1, 2015, and ending on October 29, 2015.

[(2) USE OF FUNDS.—The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development, the administration of the performance and registration information

system management, and outreach and education; other operating expenses; and such other expenses as may from time to time become necessary to implement statutory mandates of the Administration not funded from other sources.]

[(j)] *(i)* AVAILABILITY OF FUNDS; CONTRACT AUTHORITY.—

(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit 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.

(3) 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.

[(k)] *(j)* 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 2015 and up to $1,188,525 for the period beginning on October 1, [2015] *2016*, and ending on October 29, 2015, 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.

[Pursuant to subsections (c) and (f) of section 5101 of H.R. 3763 (as reported), section 31104 of title 49, United States Code, as amended by other provisions of this bill and in effect on October 1, 2016, is further amended (including a conforming amendment to the table of sections) as follows:]

[§ 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;
[(8) $215,000,000 for fiscal year 2013;
[(9) $218,000,000 for fiscal year 2014;
[(10) $218,000,000 for fiscal year 2015; and
[(11) $241,480,000 for fiscal year 2016.

[(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—Amounts made available under subsection (a) of this section remain available until expended. 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 released to the Secretary for reallocation.

[(c) REIMBURSEMENT FOR GOVERNMENT'S SHARE OF COSTS.—Amounts made available under subsection (a) of this section shall be used to reimburse States proportionately for the United States Government's share of costs incurred.

[(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant to a State under section 31102 of this title is a contractual obligation of the Government for payment of the Government's share of costs incurred by the State in developing, implementing, or developing and implementing programs to enforce commercial motor vehicle regulations, standards, and orders.

[(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.

[(g) PAYMENT TO STATES FOR COSTS.—Each State shall submit vouchers for costs the State incurs under this section and section 31102 of this title. The Secretary shall pay the State an amount not more than the Government share of costs incurred as of the date of the vouchers.

[(h) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(a) of this title. To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In reviewing State plans and allo-

cating amounts or making grants under section 153 of title 23, the Secretary shall ensure that the guidelines and standards are applied uniformly.

[(i) AVAILABILITY OF FUNDS; CONTRACT AUTHORITY.—

[(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

[(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit 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.

[(3) 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.

[(j) 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 2015 and up to $1,188,525 for the period beginning on October 1, 2016, and ending on October 29, 2015, 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.]

§ 31104. Authorization of appropriations

(a) FINANCIAL ASSISTANCE PROGRAMS.—The following sums are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account):

(1) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Subject to paragraph (2) and subsection (c), to carry out section 31102—

(A) $278,242,684 for fiscal year 2017;
(B) $293,685,550 for fiscal year 2018;
(C) $308,351,227 for fiscal year 2019;
(D) $323,798,553 for fiscal year 2020; and
(E) $339,244,023 for fiscal year 2021.

(2) HIGH PRIORITY ACTIVITIES PROGRAM.—Subject to subsection (c), to make grants and cooperative agreements under section 31102(l), the Secretary may set aside from amounts made available under paragraph (1) up to—

(A) $40,798,780 for fiscal year 2017;
(B) $41,684,114 for fiscal year 2018;
(C) $42,442,764 for fiscal year 2019;
(D) $43,325,574 for fiscal year 2020; and
(E) $44,209,416 for fiscal year 2021.

(3) COMMERCIAL MOTOR VEHICLE OPERATORS GRANT PROGRAM.—To carry out section 31103—

(A) $1,000,000 for fiscal year 2017;
(B) $1,000,000 for fiscal year 2018;
(C) $1,000,000 for fiscal year 2019;
(D) $1,000,000 for fiscal year 2020; and
(E) $1,000,000 for fiscal year 2021.

(4) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION PROGRAM.—Subject to subsection (c), to carry out section 31313—

(A) $30,958,536 for fiscal year 2017;
(B) $31,630,336 for fiscal year 2018;
(C) $32,206,008 for fiscal year 2019;
(D) $32,875,893 for fiscal year 2020; and
(E) $33,546,562 for fiscal year 2021.

(b) REIMBURSEMENT AND PAYMENT TO RECIPIENTS FOR GOVERNMENT SHARE OF COSTS.—

(1) IN GENERAL.—Amounts made available under subsection (a) shall be used to reimburse financial assistance recipients proportionally for the Federal Government's share of the costs incurred.

(2) REIMBURSEMENT AMOUNTS.—The Secretary shall reimburse a recipient, in accordance with a financial assistance agreement made under section 31102, 31103, or 31313, an amount that is at least 85 percent of the costs incurred by the recipient in a fiscal year in developing and implementing programs under such sections. The Secretary shall pay the recipient an amount not more than the Federal Government share of the total costs approved by the Federal Government in the financial assistance agreement. The Secretary shall include a recipient's in-kind contributions in determining the reimbursement.

(3) VOUCHERS.—Each recipient shall submit vouchers at least quarterly for costs the recipient incurs in developing and implementing programs under sections 31102, 31103, and 31313.

(c) DEDUCTIONS FOR PARTNER TRAINING AND PROGRAM SUPPORT.—On October 1 of each fiscal year, or as soon after that date as practicable, the Secretary may deduct from amounts made available under paragraphs (1), (2), and (4) of subsection (a) for that fiscal year not more than 1.50 percent of those amounts for partner training and program support in that fiscal year. The Secretary shall use at least 75 percent of those deducted amounts to train non-Federal Government employees and to develop related training materials in carrying out such programs.

(d) GRANTS AND COOPERATIVE AGREEMENTS AS CONTRACTUAL OBLIGATIONS.—The approval of a financial assistance agreement by

the Secretary under section 31102, 31103, or 31313 is a contractual obligation of the Federal Government for payment of the Federal Government's share of costs in carrying out the provisions of the grant or cooperative agreement.

(e) ELIGIBLE ACTIVITIES.—The Secretary shall establish criteria for eligible activities to be funded with financial assistance agreements under this section and publish those criteria in a notice of funding availability before the financial assistance program application period.

(f) PERIOD OF AVAILABILITY OF FINANCIAL ASSISTANCE AGREEMENT FUNDS FOR RECIPIENT EXPENDITURES.—The period of availability for a recipient to expend funds under a grant or cooperative agreement authorized under subsection (a) is as follows:

(1) For grants made for carrying out section 31102, other than section 31102(l), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next fiscal year.

(2) For grants made or cooperative agreements entered into for carrying out section 31102(l)(2), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 2 fiscal years.

(3) For grants made for carrying out section 31102(l)(3), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 4 fiscal years.

(4) For grants made for carrying out section 31103, for the fiscal year in which the Secretary approves the financial assistance agreement and for the next fiscal year.

(5) For grants made or cooperative agreements entered into for carrying out section 31313, for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 4 fiscal years.

(g) CONTRACT AUTHORITY; INITIAL DATE OF AVAILABILITY.—Amounts authorized from the Highway Trust Fund (other than the Mass Transit 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.

(h) AVAILABILITY OF FUNDING.—Amounts made available under this section shall remain available until expended.

* * * * * * *

§ 31106. Information systems

(a) INFORMATION SYSTEMS AND DATA ANALYSIS.—

(1) IN GENERAL.—Subject to the provisions of this section, the Secretary shall establish and operate motor carrier, commercial motor vehicle, and driver information systems and data analysis programs to support safety regulatory and enforcement activities required under this title.

(2) NETWORK COORDINATION.—In cooperation with the States, the information systems under this section shall be coordinated into a network providing accurate identification of motor carriers and drivers, commercial motor vehicle registration and license tracking, and motor carrier, commercial motor vehicle, and driver safety performance data.

(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) identify and collect necessary motor carrier, commercial motor vehicle, and driver data;

(B) evaluate the safety fitness of motor carriers and drivers;

(C) develop strategies to mitigate safety problems and to use data analysis to address and measure the effectiveness of such strategies and related programs;

(D) determine the cost-effectiveness of Federal and State safety compliance and enforcement programs and other countermeasures;

(E) adapt, improve, and incorporate other information and information systems as the Secretary determines appropriate;

(F) ensure, to the maximum extent practical, all the data is complete, timely, and accurate across all information systems and initiatives;

(G) establish and implement a national motor carrier safety data correction system; and

(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.

(4) STANDARDS.—To implement this section, the Secretary shall prescribe technical and operational standards to ensure—

(A) uniform, timely, and accurate information collection and reporting by the States and other entities as determined appropriate by the Secretary;

(B) uniform Federal, State, and local policies and procedures necessary to operate the information system; and

(C) the reliability and availability of the information to the Secretary and States.

(b) PERFORMANCE AND REGISTRATION INFORMATION [PROGRAM] *SYSTEMS MANAGEMENT.*—

(1) 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—

(i) 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; and

(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such 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.]

(c)(1) IN GENERAL.—In coordination with the information system under section 31309, the Secretary is authorized to establish a program to improve commercial motor vehicle driver safety. The objectives of the program shall include—

(A) enhancing the exchange of driver licensing information among the States, the Federal Government, and foreign countries;

(B) providing information to the judicial system on commercial motor vehicle drivers;

(C) evaluating any aspect of driver performance that the Secretary determines appropriate; and

(D) developing appropriate strategies and countermeasures to improve driver safety.

(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.

(d) COOPERATIVE AGREEMENTS, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities, or by making grants to, and entering into contracts

and cooperative agreements with, States, local governments, associations, institutions, corporations, and other persons.

(e)(1) INFORMATION AVAILABILITY AND PRIVACY PROTECTION POLICY.—The Secretary shall develop a policy on making information available from the information systems authorized by this section and section 31309. The policy shall be consistent with existing Federal information laws, including regulations, and shall provide for review and correction of such information in a timely manner.

(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver's license laws, or appropriate personnel of a local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis for compelling disclosure under section 552 of title 5.

[§ 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) 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.

[(c) 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).]

§ 31110. Authorization of appropriations

(a) ADMINISTRATIVE EXPENSES.—There is 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—

(1) $259,000,000 for fiscal year 2016;
(2) $259,000,000 for fiscal year 2017;
(3) $259,000,000 for fiscal year 2018;
(4) $259,000,000 for fiscal year 2019;
(5) $259,000,000 for fiscal year 2020; and

(6) $259,000,000 for fiscal year 2021.

(b) USE OF FUNDS.—The funds authorized by this section shall be used for—

(1) personnel costs;

(2) administrative infrastructure;

(3) rent;

(4) information technology;

(5) programs for research and technology, information management, regulatory development, and the administration of performance and registration information systems management under section 31106(b);

(6) programs for outreach and education under subsection (c);

(7) other operating expenses;

(8) conducting safety reviews of new operators; and

(9) such other expenses as may from time to time become necessary to implement statutory mandates of the Federal Motor Carrier Safety Administration not funded from other sources.

(c) OUTREACH AND EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary may conduct, through any combination of grants, contracts, cooperative agreements, and other activities, an internal and external outreach and education program to be administered by the Administrator of the Federal Motor Carrier Safety Administration.

(2) FEDERAL SHARE.—The Federal share of an outreach and education project for which a grant, contract, or cooperative agreement is made under this subsection may be up to 100 percent of the cost of the project.

(3) FUNDING.—From amounts made available under subsection (a), the Secretary shall make available not more than $4,000,000 each fiscal year.

(d) CONTRACT AUTHORITY; INITIAL DATE OF AVAILABILITY.—Amounts authorized from the Highway Trust Fund (other than the Mass Transit 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.

(e) FUNDING AVAILABILITY.—Amounts made available under this section shall remain available until expended.

(f) CONTRACTUAL OBLIGATION.—The approval of funds by the Secretary under this section is a contractual obligation of the Federal Government for payment of the Federal Government's share of costs.

SUBCHAPTER II—LENGTH AND WIDTH LIMITATIONS

§ 31111. Length limitations

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

(1) AUTOMOBILE TRANSPORTER.—The term "automobile transporter" means any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.

(2) MAXI-CUBE VEHICLE.—The term "maxi-cube vehicle" means a truck tractor combined with a semitrailer and a separable property-carrying unit designed to be loaded and unloaded through the semitrailer, with the length of the separable property-carrying unit being not more than 34 feet and

the length of the vehicle combination being not more than 65 feet.

(3) TRUCK TRACTOR.—The term "truck tractor" means—

(A) a non-property-carrying power unit that operates in combination with a semitrailer or trailer; or

(B) a power unit that carries as property only motor vehicles when operating in combination with a semitrailer in transporting motor vehicles.

(4) DRIVEAWAY SADDLEMOUNT VEHICLE TRANSPORTER COMBINATION.—The term "driveaway saddlemount vehicle transporter combination" means a vehicle combination designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth-wheel of the forward vehicle of the truck or truck tractor in front of it. Such combination may include one fullmount.

(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;

(B) imposes an overall length limitation on a commercial motor vehicle operating in a truck tractor-semitrailer or truck tractor-semitrailer-trailer combination;

(C) has the effect of prohibiting the use of a semitrailer or trailer of the same dimensions as those that were in actual and lawful use in that State on December 1, 1982;

(D) imposes a vehicle length limitation of not less than or more than 97 feet on all driveaway saddlemount vehicle transporter combinations;

(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**[**.**]***; or*

(G) imposes a vehicle length limitation of less than 80 feet on a stinger-steered automobile transporter with a front overhang of less than 4 feet and a rear overhang of less than 6 feet.

(2) A length limitation prescribed or enforced by a State under paragraph (1)(A) of this subsection applies only to a semitrailer or trailer and not to a truck tractor.

(c) MAXI-CUBE AND VEHICLE COMBINATION LIMITATIONS.—A State may not prohibit a maxi-cube vehicle or a commercial motor vehicle combination consisting of a truck tractor and 2 trailing

units 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 under subsection (e) of this section.

(d) EXCLUSION OF SAFETY AND ENERGY CONSERVATION DEVICES.—Length calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle. However, such a device may not have by its design or use the ability to carry cargo.

(e) QUALIFYING HIGHWAYS.—The Secretary by regulation shall designate as qualifying Federal-aid Primary System highways those highways of the Federal-aid Primary System in existence on June 1, 1991, that can accommodate safely the applicable vehicle lengths provided in this section.

(f) EXEMPTIONS.—(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from either or both provisions.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the Secretary shall exempt the segment from either or both of those provisions. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Sec-

retary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (e) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as an amendment to the final regulations.

(g) ACCOMMODATING SPECIALIZED EQUIPMENT.—In prescribing regulations to carry out this section, the Secretary may make decisions necessary to accommodate specialized equipment, including automobile and vessel transporters and maxi-cube vehicles.

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SUBCHAPTER III—SAFETY REGULATION

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§ 31136. United States Government regulations

(a) MINIMUM SAFETY STANDARDS.—Subject to section 30103(a) of this title, the Secretary of Transportation shall prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—

(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely;

(2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely;

(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and, after the national registry maintained by the Department of Transportation under section 31149(d) is established, are listed on such registry;

(4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators; and

(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.

(b) ELIMINATING AND AMENDING EXISTING REGULATIONS.—The Secretary may not eliminate or amend an existing motor carrier safety regulation related only to the maintenance, equipment, loading, or operation (including routing) of vehicles carrying material found to be hazardous under section 5103 of this title until an

equivalent or more stringent regulation has been prescribed under section 5103.

(c) PROCEDURES AND CONSIDERATIONS.—(1) A regulation under this section shall be prescribed under section 553 of title 5 (without regard to sections 556 and 557 of title 5).

(2) Before prescribing regulations under this section, the Secretary shall consider, to the extent practicable and consistent with the purposes of this chapter—

(A) costs and benefits; and

(B) State laws and regulations on commercial motor vehicle safety, to minimize their unnecessary preemption.

(d) EFFECT OF EXISTING REGULATIONS.—If the Secretary does not prescribe regulations on commercial motor vehicle safety under this section, regulations on commercial motor vehicle safety prescribed by the Secretary before October 30, 1984, and in effect on October 30, 1984, shall be deemed in this subchapter to be regulations prescribed by the Secretary under this section.

(e) EXEMPTIONS.—The Secretary may grant in accordance with section 31315 waivers and exemptions from, or conduct pilot programs with respect to, any regulations prescribed under this section.

(f) REGULATORY IMPACT ANALYSIS.—Within each regulatory impact analysis of a proposed or final rule issued by the Federal Motor Carrier Safety Administration, the Secretary shall, whenever practicable—

(1) consider the effects of the proposed or final rule on different segments of the motor carrier industry;

(2) formulate estimates and findings based on the best available science; and

(3) utilize available data specific to the different types of motor carriers, including small and large carriers, and drivers that will be impacted by the proposed or final rule.

(g) PUBLIC PARTICIPATION.—

(1) IN GENERAL.—If a proposed rule promulgated under this part is likely to lead to the promulgation of a major rule, the Secretary, before promulgating such proposed rule, shall—

(A) issue an advance notice of proposed rulemaking; or

(B) proceed with a negotiated rulemaking.

(2) REQUIREMENTS.—Each advance notice of proposed rulemaking issued under paragraph (1) shall—

(A) identify the need for a potential regulatory action;

(B) identify and request public comment on the best available science or technical information relevant to analyzing potential regulatory alternatives;

(C) request public comment on the available data and costs with respect to regulatory alternatives reasonably likely to be considered as part of the rulemaking; and

(D) request public comment on available alternatives to regulation.

(3) WAIVER.—This subsection does not apply to a proposed rule if the Secretary, for good cause, finds (and incorporates the finding and a brief statement of reasons for such finding in the proposed or final rule) that an advance notice of proposed rulemaking is impracticable, unnecessary, or contrary to the public interest.

(h) REVIEW OF RULES.—

(1) IN GENERAL.—Once every 5 years, the Secretary shall conduct a review of regulations issued under this part.

(2) SCHEDULE.—At the beginning of each 5-year review period, the Secretary shall publish a schedule that sets forth the plan for completing the review under paragraph (1) within 5 years.

(3) NOTIFICATION OF CHANGES.—During each review period, the Secretary shall address any changes to the schedule published under paragraph (2) and notify the public of such changes.

(4) CONSIDERATION OF PETITIONS.—In conducting a review under paragraph (1), the Secretary shall consider petitions for regulatory action under this part received by the Administrator of the Federal Motor Carrier Safety Administration.

(5) ASSESSMENT.—At the conclusion of each review under paragraph (1), the Secretary shall publish on a publicly accessible Internet Web site of the Department of Transportation an assessment that includes—

(A) an inventory of the regulations issued during the 5-year period ending on the date on which the assessment is published;

(B) a determination of whether the regulations are—

(i) consistent and clear;

(ii) current with the operational realities of the motor carrier industry; and

(iii) uniformly enforced; and

(C) an assessment of whether the regulations continue to be necessary.

(6) RULEMAKING.—Not later than 2 years after the completion of each review under this subsection, the Secretary shall initiate a rulemaking to amend regulations as necessary to address the determinations made under paragraph (5)(B) and the results of the assessment under paragraph (5)(C).

(i) RULE OF CONSTRUCTION.—Nothing in subsection (f) or (g) may be construed to limit the contents of an advance notice of proposed rulemaking.

§ 31137. Electronic logging devices and brake maintenance regulations

(a) USE OF ELECTRONIC LOGGING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic logging device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

(2) ensuring that an electronic logging device is not used to harass a vehicle operator.

(b) ELECTRONIC LOGGING DEVICE REQUIREMENTS.—

(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

(A) require an electronic logging device—

(i) to accurately record commercial driver hours of service;

(ii) to record the location of a commercial motor vehicle;

(iii) to be tamper resistant; and

(iv) to be synchronized to the operation of the vehicle engine or be capable of recognizing when the vehicle is being operated;

(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

(C) [apply to] *except as provided in paragraph (3), apply to* a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

(B) establishing a secure process for standardized—

(i) and unique vehicle operator identification;

(ii) data access;

(iii) data transfer for vehicle operators between motor vehicles;

(iv) data storage for a motor carrier; and

(v) data transfer and transportability for law enforcement officials;

(C) establishing a standard security level for an electronic logging device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

(3) EXCEPTION.—A motor carrier, when transporting a motor home or recreation vehicle trailer within the definition of the term "driveaway-towaway operation" (as defined in section 390.5 of title 49, Code of Federal Regulations), may comply with the hours of service requirements by requiring each driver to use—

(A) a paper record of duty status form; or

(B) an electronic logging device.

(c) CERTIFICATION CRITERIA.—

(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of electronic logging devices to ensure that the device meets the performance requirements under this section.

(2) EFFECT OF NONCERTIFICATION.—Electronic logging devices that are not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evi-

dence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

(d) ADDITIONAL CONSIDERATIONS.—The Secretary, in prescribing the regulations described in subsection (a), shall consider how such regulations may—

(1) 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; and

(2) include such measures as the Secretary determines are necessary to protect the privacy of each individual whose personal data is contained in an electronic logging device.

(e) 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 an action taken by the Secretary or by law enforcement officials to enforce the regulations referred to in paragraph (1).

(3) ENFORCEMENT.—The Secretary shall institute appropriate measures to ensure any information collected by electronic logging devices is used by enforcement personnel only for the purpose of determining compliance with hours of service requirements.

(f) DEFINITIONS.—In this section:

(1) ELECTRONIC LOGGING DEVICE.—The term "electronic logging device" means an electronic device that—

(A) is capable of recording a driver's hours of service and duty status accurately and automatically; and

(B) meets the requirements established by the Secretary through regulation.

(2) TAMPER RESISTANT.—The term "tamper resistant" means resistant to allowing any individual to cause an electronic device to record the incorrect date, time, and location for changes to on- duty driving 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.

(g) BRAKES AND BRAKE SYSTEMS MAINTENANCE REGULATIONS.—The Secretary shall maintain regulations on improved standards or methods to ensure that brakes and brake systems of commercial motor vehicles are maintained properly and inspected by appropriate employees. At a minimum, the regulations shall establish minimum training requirements and qualifications for employees responsible for maintaining and inspecting the brakes and brake systems.

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§ 31144. Safety fitness of owners and operators

(a) IN GENERAL.—The Secretary shall—

(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator—

(A) in operations that affect interstate commerce within the United States; and

(B) in operations in Canada and Mexico if the owner or operator also conducts operations within the United States;

(2) periodically update such safety fitness determinations;

(3) make such final safety fitness determinations readily available to the public; and

(4) prescribe by regulation penalties for violations of this section consistent with section 521.

(b) PROCEDURE.—The Secretary shall maintain by regulation a procedure for determining the safety fitness of an owner or operator. The procedure shall include, at a minimum, the following elements:

(1) Specific initial and continuing requirements with which an owner or operator must comply to demonstrate safety fitness.

(2) A methodology the Secretary will use to determine whether an owner or operator is fit.

(3) Specific time frames within which the Secretary will determine whether an owner or operator is fit.

(c) PROHIBITED TRANSPORTATION.—

(1) IN GENERAL.—Except as provided in section 521(b)(5)(A) and this subsection, an owner or operator who the Secretary determines is not fit may not operate commercial motor vehicles in interstate commerce beginning on the 61st day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—With regard to owners or operators of commercial motor vehicles designed or used to transport passengers, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—With regard to owners or operators of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit. A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124.

(4) SECRETARY'S DISCRETION.—Except for owners or operators described in paragraphs (2) and (3), the Secretary may allow an owner or operator who is not fit to continue operating for an additional 60 days after the 61st day after the date of the Secretary's fitness determination, if the Secretary determines that such owner or operator is making a good faith effort to become fit.

(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.

(d) DETERMINATION OF UNFITNESS BY STATE.—If a State that receives motor carrier safety assistance program funds under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of a commercial motor vehicle that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicle in the State, the Secretary shall prohibit the owner or operator from operating such vehicle in interstate commerce until the State determines that the owner or operator is fit.

(e) REVIEW OF FITNESS DETERMINATIONS.—

(1) IN GENERAL.—Not later than 45 days after an unfit owner or operator requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport passengers requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(f) PROHIBITED GOVERNMENT USE.—A department, agency, or instrumentality of the United States Government may not use to provide any transportation service an owner or operator who the Secretary has determined is not fit until the Secretary determines such owner or operator is fit.

(g) SAFETY REVIEWS OF NEW OPERATORS.—

(1) SAFETY REVIEW.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the Secretary shall require, by regulation, each

owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary shall require, by regulation, each owner and each operator granted new registration to transport passengers under section 13902 or 31134 to undergo a safety review not later than 120 days after the owner or operator, as the case may be, begins operations under such registration.

(2) ELEMENTS.—In the regulations issued pursuant to paragraph (1), the Secretary shall establish the elements of the safety review, including basic safety management controls. In establishing such elements, the Secretary shall consider their effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

(3) PHASE-IN OF REQUIREMENT.—The Secretary shall phase in the requirements of paragraph (1) in a manner that takes into account the availability of certified motor carrier safety auditors.

(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 $32,000,000 per fiscal year and up to $2,535,519 for the period beginning on October 1, 2015, and ending on October 29, 2015, for audits of new entrant motor carriers conducted pursuant to this paragraph.]

(B) SET ASIDE.—The Secretary shall set aside from amounts made available under section 31104(a) up to $32,000,000 for fiscal year 2016 for audits of new entrant motor carriers conducted under 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.

[Pursuant to subsections (e)(1) and (f) of section 5101 of H.R. 3763 (as reported), paragraph (5) of section 31144 of title 49, United States Code, as amended by other provisions of this bill and in effect on October 1, 2016, is repealed as follows:]

[(5) NEW ENTRANT AUDITS.—

[(A) GRANTS.—The Secretary may make grants to States and local governments for new entrant motor carrier au-

dits 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 under section 31104(a) up to $32,000,000 for fiscal year 2016 for audits of new entrant motor carriers conducted under 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.]

(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—

(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country's motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under subsection (b) in making motor carrier safety fitness determinations.

(i) PERIODIC SAFETY REVIEWS OF OWNERS AND OPERATORS OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHICLES DESIGNED OR USED TO TRANSPORT PASSENGERS.—

(1) SAFETY REVIEW.—

(A) IN GENERAL.—The Secretary shall—

(i) determine the safety fitness of each motor carrier of passengers who the Secretary registers under sec-

tion 13902 or 31134 through a simple and understandable rating system that allows passengers to compare the safety performance of each such motor carrier; and

(ii) assign a safety fitness rating to each such motor carrier.

(B) APPLICABILITY.—Subparagraph (A) shall apply—

(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each motor carrier of passengers on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting motor carriers of passengers.

(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall—

(A) reassess the safety fitness rating of each motor carrier of passengers not less frequently than once every 3 years; and

(B) annually assess the safety fitness of certain motor carriers of passengers that serve primarily urban areas with high passenger loads.

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§ 31149. Medical program

(a) MEDICAL REVIEW BOARD.—

(1) ESTABLISHMENT AND FUNCTION.—The Secretary of Transportation shall establish a Medical Review Board to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on medical standards and guidelines for the physical qualifications of operators of commercial motor vehicles, medical examiner education, and medical research.

(2) COMPOSITION.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of medical specialties relevant to the driver fitness requirements of the Federal Motor Carrier Safety Administration.

(b) CHIEF MEDICAL EXAMINER.—The Secretary shall appoint a chief medical examiner who shall be an employee of the Federal Motor Carrier Safety Administration and who shall hold a position under section 3104 of title 5, United States Code, relating to employment of specially qualified scientific and professional personnel,

and shall be paid under section 5376 of title 5, United States Code, relating to pay for certain senior-level positions.

(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) establish, review, and revise—

(i) medical standards for operators of commercial motor vehicles that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and

(ii) requirements for periodic physical examinations of such operators performed by medical examiners who have, at a minimum, self-certified that they have completed training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation;

(B) require each such operator to have a current valid medical certificate;

(C) conduct periodic reviews of a select number of medical examiners on the national registry to ensure that proper examinations of such operators are being conducted;

(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

(i) the completion of specific courses and materials;

(ii) certification, including, at a minimum, self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

(iii) an examination that requires a passing grade; and

(iv) demonstration of a medical examiner's willingness to meet the reporting requirements established by the Secretary;

(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.

(2) MONITORING PERFORMANCE.—The Secretary shall investigate patterns of errors or improper certification by a medical examiner. If the Secretary finds that a medical examiner has

issued a medical certificate to an operator of a commercial motor vehicle who fails to meet the applicable standards at the time of the examination or that a medical examiner has falsely claimed to have completed training in physical and medical examination standards as required by this section, the Secretary may remove such medical examiner from the registry and may void the medical certificate of the applicant or holder.

(d) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—The Secretary, acting through the Federal Motor Carrier Safety Administration—

(1) shall establish and maintain a current national registry of medical examiners who are qualified to perform examinations and issue medical certificates;

(2) shall remove from the registry the name of any medical examiner that fails to meet or maintain the qualifications established by the Secretary for being listed in the registry or otherwise does not meet the requirements of this section or regulation issued under this section;

(3) shall accept as valid only medical certificates issued by persons on the national registry of medical examiners*, unless the person issuing the certificate is the subject of an exemption issued under section 31315(b)(1)*; and

(4) may make participation of medical examiners in the national registry voluntary if such a change will enhance the safety of operators of commercial motor vehicles.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

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SUBCHAPTER IV—MISCELLANEOUS

§ 31161. International cooperation

The Secretary of Transportation is authorized to use funds made available by [section 31104(i)] *section 31110* to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.

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CHAPTER 313—COMMERCIAL MOTOR VEHICLE OPERATORS

Sec.
31301. Definitions.

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[31313. Grants for commercial driver's license program implementation.]
31313. Commercial driver's license program implementation financial assistance program.

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§ 31305. General driver fitness, testing, and training

(a) MINIMUM STANDARDS FOR TESTING AND FITNESS.—The Secretary of Transportation shall prescribe regulations on minimum

standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle. The regulations—

(1) shall prescribe minimum standards for written and driving tests of an individual operating a commercial motor vehicle;

(2) shall require an individual who operates or will operate a commercial motor vehicle to take a driving test in a vehicle representative of the type of vehicle the individual operates or will operate;

(3) shall prescribe minimum testing standards for the operation of a commercial motor vehicle and may prescribe different minimum testing standards for different classes of commercial motor vehicles;

(4) shall ensure that an individual taking the tests has a working knowledge of—

(A) regulations on the safe operation of a commercial motor vehicle prescribed by the Secretary and contained in title 49, Code of Federal Regulations; and

(B) safety systems of the vehicle;

(5) shall ensure that an individual who operates or will operate a commercial motor vehicle carrying a hazardous material—

(A) is qualified to operate the vehicle under regulations on motor vehicle transportation of hazardous material prescribed under chapter 51 of this title;

(B) has a working knowledge of—

(i) those regulations;

(ii) the handling of hazardous material;

(iii) the operation of emergency equipment used in response to emergencies arising out of the transportation of hazardous material; and

(iv) appropriate response procedures to follow in those emergencies; and

(C) is licensed by a State to operate the vehicle after having first been determined under section 5103a of this title as not posing a security risk warranting denial of the license.

(6) shall establish minimum scores for passing the tests;

(7) shall ensure that an individual taking the tests is qualified to operate a commercial motor vehicle under regulations prescribed by the Secretary and contained in title 49, Code of Federal Regulations, to the extent the regulations apply to the individual; and

(8) may require—

(A) issuance of a certification of fitness to operate a commercial motor vehicle to an individual passing the tests; and

(B) the individual to have a copy of the certification in the individual's possession when the individual is operating a commercial motor vehicle.

(b) REQUIREMENTS FOR OPERATING VEHICLES.—(1) Except as provided in paragraph (2) of this subsection, an individual may operate a commercial motor vehicle only if the individual has passed written and driving tests that meet the minimum standards prescribed by the Secretary under subsection (a) of this section to op-

erate the vehicle and has a commercial driver's license to operate the vehicle.

(2) The Secretary may prescribe regulations providing that an individual may operate a commercial motor vehicle for not more than 90 days if the individual—

(A) passes a driving test for operating a commercial motor vehicle that meets the minimum standards prescribed under subsection (a) of this section; and

(B) has a driver's license that is not suspended, revoked, or canceled.

(c) STANDARDS FOR TRAINING.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

(1) addressing the knowledge and skills that—

(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

(B) must be acquired before obtaining a commercial driver's license for the first time or upgrading from one class of commercial driver's license to another class;

(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements;

(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.

(d) STANDARDS FOR TRAINING AND TESTING OF VETERAN OPERATORS.—

(1) IN GENERAL.—Not later than December 31, 2016, the Secretary shall modify the regulations prescribed under subsections (a) and (c) to—

(A) exempt a covered individual from all or a portion of a driving test if the covered individual had experience in the armed forces or reserve components driving vehicles similar to a commercial motor vehicle;

(B) ensure that a covered individual may apply for an exemption under subparagraph (A) during, at least, the 1-year period beginning on the date on which such individual separates from service in the armed forces or reserve components; and

(C) credit the training and knowledge a covered individual received in the armed forces or reserve components driving vehicles similar to a commercial motor vehicle for

purposes of satisfying minimum standards for training and knowledge.

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

(A) ARMED FORCES.—The term "armed forces" has the meaning given that term in section 101(a)(4) of title 10.

(B) COVERED INDIVIDUAL.—The term "covered individual" means—

(i) a former member of the armed forces; or

(ii) a former member of the reserve components.

(C) RESERVE COMPONENTS.—The term "reserve components" means—

(i) the Army National Guard of the United States;

(ii) the Army Reserve;

(iii) the Navy Reserve;

(iv) the Marine Corps Reserve;

(v) the Air National Guard of the United States;

(vi) the Air Force Reserve; and

(vii) the Coast Guard Reserve.

§ 31306. Alcohol and controlled substances testing

(a) DEFINITION.—In this section and section 31306a, "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) TESTING PROGRAM FOR OPERATORS OF COMMERCIAL MOTOR VEHICLES.—(1)(A) In the interest of commercial motor vehicle safety, the Secretary of Transportation shall prescribe regulations that establish a program requiring motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of operators of commercial motor vehicles for the use of a controlled substance in violation of law or a United States Government regulation and to conduct reasonable suspicion, random, and post-accident testing of such operators for the use of alcohol in violation of law or a United States Government regulation. **[**The regulations shall permit such motor carriers to conduct preemployment testing of such employees for the use of alcohol.**]**

(B) The regulations prescribed under subparagraph (A) shall permit motor carriers—

(i) to conduct preemployment testing of commercial motor vehicle operators for the use of alcohol; and

(ii) to use hair testing as an acceptable alternative to urine testing—

(I) in conducting preemployment testing for the use of a controlled substance; and

(II) in conducting random testing for the use of a controlled substance if the operator was subject to hair testing for preemployment testing.

[(B)**]** *(C)* When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of operators of commercial motor vehicles for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of an operator of a commercial motor vehicle be conducted when loss of human life occurs in an accident involving a commercial motor vehicle; [and]

(B) may require that post-accident testing of such an operator be conducted when bodily injury or significant property damage occurs in any other serious accident involving a commercial motor vehicle[.]*; and*

(C) shall provide an exemption from hair testing for commercial motor vehicle operators with established religious beliefs that prohibit the cutting or removal of hair.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, *for urine testing, and technical guidelines for hair testing,* including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; [and]

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section; *and*

(D) laboratory protocols and cut-off levels for hair testing to detect the use of a controlled substance;

(3) require that a laboratory involved in testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that any test indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(d) TESTING AS PART OF MEDICAL EXAMINATION.—The Secretary of Transportation may provide that testing under subsection (a) of this section for operators subject to subpart E of part 391 of title 49, Code of Federal Regulations, be conducted as part of the medical examination required under that subpart.

(e) REHABILITATION.—The Secretary of Transportation shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which those operators shall be required to participate in a program. This section does not prevent a motor carrier from establishing a program under this section in cooperation with another motor carrier.

(f) SANCTIONS.—The Secretary of Transportation shall decide on appropriate sanctions for a commercial motor vehicle operator who is found, based on tests conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law or a Government regulation but who is not under the influence of alcohol or a controlled substance as provided in this chapter.

(g) EFFECT ON STATE AND LOCAL GOVERNMENT REGULATIONS.—A State or local government may not prescribe or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this section. However, a regulation prescribed under this section may not be construed to preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(h) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—In prescribing regulations under this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(i) OTHER REGULATIONS ALLOWED.—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by commercial motor vehicle employees.

(j) APPLICATION OF PENALTIES.—This section does not supersede a penalty applicable to an operator of a commercial motor vehicle under this chapter or another law.

* * * * * * *

§ 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) The State shall adopt and carry out a program for testing and ensuring the fitness of individuals to operate commercial motor vehicles consistent with the minimum standards prescribed by the Secretary of Transportation under section 31305(a) of this title.

(2) The State may issue a commercial driver's license to an individual only if the individual passes written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards.

(3) The State shall have in effect and enforce a law providing that an individual with a blood alcohol concentration level at or above the level established by section 31310(a) of this title when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(4) The State shall authorize an individual to operate a commercial motor vehicle only by issuing a commercial driver's license containing the information described in section 31308(3) of this title.

(5) Not later than the time period prescribed by the Secretary 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.

(6) Before issuing a commercial driver's license to an individual or renewing such a license, the State shall request from any other State that has issued a driver's license to the individual all information about the driving record of the individual.

(7) Not later than 30 days after issuing a commercial driver's license, 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 issuance.

(8) Not later than 10 days after disqualifying the holder of a commercial driver's license from operating a commercial motor vehicle (or after revoking, suspending, or canceling the license) for at least 60 days, the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, and the State that issued the license, of the disqualification, revocation, suspension, or cancellation, and the violation that resulted in the disqualification, revocation, suspension, or cancellation shall be recorded.

(9) If an individual violates a State or local law on motor vehicle traffic control (except a parking violation) and the individual—

(A) has a commercial driver's license issued by another State; or

(B) is operating a commercial vehicle without a commercial driver's license and has a driver's license issued by another State,

the State in which the violation occurred shall notify a State official designated by the issuing State of the violations not later than 10 days after the date the individual is found to have committed the violation.

(10)(A) The State may not issue a commercial driver's license to an individual during a period in which the individual is disqualified from operating a commercial motor vehicle or the individual's driver's license is revoked, suspended, or canceled.

(B) The State may not issue a special license or permit (including a provisional or temporary license) to an individual who holds a commercial driver's license that permits the individual to drive a commercial motor vehicle during a period in which—

(i) the individual is disqualified from operating a commercial motor vehicle; or

(ii) the individual's driver's license is revoked, suspended, or canceled.

(11) The State may issue a commercial driver's license to an individual who has a commercial driver's license issued by another State only if the individual first returns the driver's license issued by the other State.

(12)(A) Except as provided in subparagraphs (B) and (C), the State may issue a commercial driver's license only to an individual who operates or will operate a commercial motor vehicle and is domiciled in the State.

(B) Under regulations prescribed by the Secretary, the State may issue a commercial driver's license to an individual who—

(i) operates or will operate a commercial motor vehicle; and

(ii) is not domiciled in a State that issues commercial driver's licenses.

(C) The State may issue a commercial driver's license to an individual who—

(i) operates or will operate a commercial motor vehicle;

[(ii) is a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary; and**]**

(ii) is an active duty member of—

(I) the armed forces (as that term is defined in section 101(a)(4) of title 10); or

(II) the reserve components (as that term is defined in section 31305(d)(2)(C) of this title); and

(iii) is not domiciled in the State, but whose temporary or permanent duty station is located in the State.

(13) The State shall impose penalties consistent with this chapter that the State considers appropriate and the Secretary approves for an individual operating a commercial motor vehicle.

(14) The State shall allow an individual to operate a commercial motor vehicle in the State if—

(A) the individual has a commercial driver's license issued by another State under the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(B) the license is not revoked, suspended, or canceled; and

(C) the individual is not disqualified from operating a commercial motor vehicle.

(15) The State shall disqualify an individual from operating a commercial motor vehicle for the same reasons and time periods for which the Secretary shall disqualify the individual under subsections (b)-(e), (i)(1)(A), and (i)(2) of section 31310.

(16)(A) Before issuing a commercial driver's license to an individual, the State shall request the Secretary for information from the National Driver Register maintained under chapter 303 of this title (after the Secretary decides the Register is operational) on whether the individual—

(i) has been disqualified from operating a motor vehicle (except a commercial motor vehicle);

(ii) has had a license (except a license authorizing the individual to operate a commercial motor vehicle) revoked, suspended, or canceled for cause in the 3-year period ending on the date of application for the commercial driver's license; or

(iii) has been convicted of an offense specified in section 30304(a)(3) of this title.

(B) The State shall give full weight and consideration to that information in deciding whether to issue the individual a commercial driver's license.

(17) The State shall adopt and enforce regulations prescribed by the Secretary under as 31310(j) of this title.

(18) The State shall maintain, as part of its driver information system, a record of each violation of a State or local motor vehicle traffic control law while operating a motor vehicle (except a parking violation) for each individual who holds a commercial driver's license. The record shall be available upon request to the individual, the Secretary, employers, prospective employers, State licensing and law enforcement agencies, and their authorized agents.

(19) The State shall—

(A) record in the driving record of an individual who has a commercial driver's license issued by the State; and

(B) make available to all authorized persons and governmental entities having access to such record,

all information the State receives under paragraph (9) with respect to the individual and every violation by the individual involving a motor vehicle (including a commercial motor vehicle) of a State or local law on traffic control (except a parking violation), not later than 10 days after the date of receipt of such information or the date of such violation, as the case may be. The State may not allow information regarding such violations to be withheld or masked in any way from the record of an individual possessing a commercial driver's license.

(20) The State shall revoke, suspend, or cancel the commercial driver's license of an individual in accordance with regulations issued by the Secretary to carry out section 31310(g).

(21) By the date established by the Secretary under section 31309(e)(4), the State shall be operating a commercial driver's license information system that is compatible with the modernized commercial driver's license information system under section 31309.

(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

(A) for a driver holding a foreign commercial driver's license—

(i) each conviction relating to the operation of a commercial motor vehicle; and

(ii) each conviction relating to the operation of a non-commercial motor vehicle; and

(B) for an unlicensed driver or a driver holding a foreign non-commercial driver's license, each conviction relating to the operation of a commercial motor vehicle.

(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall implement a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.

(24) 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.

(25) Not later than 5 years after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.

(b) STATE SATISFACTION OF REQUIREMENTS.—A State may satisfy the requirements of subsection (a) of this section that the State disqualify an individual from operating a commercial motor vehicle by revoking, suspending, or canceling the driver's license issued to the individual.

(c) NOTIFICATION.—Not later than 30 days after being notified by a State of the proposed issuance of a commercial driver's license to an individual, the Secretary or the operator of the information system under section 31309 of this title, as the case may be, shall notify the State whether the individual has a commercial driver's license issued by another State or has been disqualified from operating a commercial motor vehicle by another State or the Secretary.

(d) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

(1) IN GENERAL.—A State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

(A) the actions that the State will 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 will take to comply with the requirements under 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). In establishing the schedule, the State shall prioritize actions to address any deficiencies highlighted by the Secretary as critical in the most recent audit of the program.

(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, 2015.

(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

(A) review each plan submitted under paragraph (1);

(B)(i) approve a plan if the Secretary determines that the plan meets the requirements under this subsection and promotes the goals of this chapter; and

(ii) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4), the Secretary shall—

(A) provide a written explanation of the disapproval to the State; and

(B) allow the State to modify the plan and resubmit it for approval.

(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

(e) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

(2) make the results of the comparison available to the public.

* * * * * * *

[§ 31313. Grants for commercial driver's license program implementation

[(a) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—

[(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant to a State in a fiscal year—

[(A) to comply with the requirements of section 31311;

[(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, 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;

[(iv) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32303(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012.

[(2) PROHIBITIONS.—A State may not use grant funds under this subsection to rent, lease, or buy land or buildings.

[(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.]

§ 31313. Commercial driver's license program implementation financial assistance program

(a) IN GENERAL.—The Secretary of Transportation shall administer a financial assistance program for commercial driver's license program implementation for the purposes described in paragraphs (1) and (2).

(1) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION GRANTS.—In carrying out the program, the Secretary may make a grant to a State agency in a fiscal year—

(A) to assist the State in complying with the requirements of section 31311;

(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311, to improve the State's 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 implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32303(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012 (49 U.S.C. 31304 note).

(2) PRIORITY ACTIVITIES.—The Secretary may make a grant to or enter into a cooperative agreement with a State agency, local government, or any person in a fiscal year for research, development and testing, demonstration projects, public education, and other special activities and projects relating to commercial drivers licensing and motor vehicle safety that—

(A) benefit all jurisdictions of the United States;

(B) address national safety concerns and circumstances;

(C) address emerging issues relating to commercial driver's license improvements;

(D) support innovative ideas and solutions to commercial driver's license program issues; or

(E) address other commercial driver's license issues, as determined by the Secretary.

(b) PROHIBITIONS.—A recipient may not use financial assistance funds awarded under this section to rent, lease, or buy land or buildings.

(c) REPORT.—The Secretary shall issue an annual report on the activities carried out under this section.

(d) APPORTIONMENT.—All amounts made available to carry out this section for a fiscal year shall be apportioned to a recipient described in subsection (a)(2) according to criteria prescribed by the Secretary.

(e) FUNDING.—For fiscal years beginning after September 30, 2016, this section shall be funded under section 31104.

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§ 31315. Waivers, exemptions, and pilot programs

(a) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this chapter or section 31136 if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver—

(1) for a period not in excess of 3 months;

(2) limited in scope and circumstances;

(3) for nonemergency and unique events; and

(4) subject to such conditions as the Secretary may impose.

(b) EXEMPTIONS.—

(1) IN GENERAL.—Upon receipt of a request pursuant to paragraph (3), the Secretary of Transportation may grant to a person or class of persons an exemption from a regulation prescribed under this chapter [or section 31136]*, section 31136, or section 31149(d)(3)* if the Secretary finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. An exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application to the Secretary.

(2) AUTHORITY TO REVOKE EXEMPTION.—The Secretary shall immediately revoke an exemption if—

(A) the person fails to comply with the terms and conditions of such exemption;

(B) the exemption has resulted in a lower level of safety than was maintained before the exemption was granted; or

(C) continuation of the exemption would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(3) REQUESTS FOR EXEMPTION.—Not later than 180 days after the date of enactment of this section and after notice and an opportunity for public comment, the Secretary shall specify by regulation the procedures by which a person may request an exemption. Such regulations shall, at a minimum, require the person to provide the following information for each exemption request:

(A) The provisions from which the person requests exemption.

(B) The time period during which the requested exemption would apply.

(C) An analysis of the safety impacts the requested exemption may cause.

(D) The specific countermeasures the person would undertake to ensure an equivalent or greater level of safety than would be achieved absent the requested exemption.

(4) NOTICE AND COMMENT.—

(A) UPON RECEIPT OF A REQUEST.—Upon receipt of an exemption request, the Secretary shall publish in the Federal Register (or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) a notice explaining the request that has been filed and shall give the public an opportunity to inspect the safety analysis and any other relevant information known to the Secretary and to comment on the request. This subparagraph does not require the release of information protected by law from public disclosure.

(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted

the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.

(C) AFTER DENYING A REQUEST.—After denying a request for exemption, the Secretary shall publish in the Federal Register (or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person denied the exemption and the reasons for such denial. The Secretary may meet the requirement of this subparagraph by periodically publishing in the Federal Register the names of persons denied exemptions and the reasons for such denials.

(5) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall grant or deny an exemption request after a thorough review of its safety implications, but in no case later than 180 days after the filing date of such request.

(6) TERMS AND CONDITIONS.—The Secretary shall establish terms and conditions for each exemption to ensure that it will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The Secretary shall monitor the implementation of the exemption to ensure compliance with its terms and conditions.

(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency to notify the State's roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.

(c) PILOT PROGRAMS.—

(1) IN GENERAL.—The Secretary may conduct pilot programs to evaluate alternatives to regulations relating to, or innovative approaches to, motor carrier, commercial motor vehicle, and driver safety. Such pilot programs may include exemptions from a regulation prescribed under this chapter or section 31136 if the pilot program contains, at a minimum, the elements described in paragraph (2). The Secretary shall publish a detailed description of each pilot program, including the exemptions to be considered, and provide notice and an opportunity for public comment before the effective date of the program.

(2) PROGRAM ELEMENTS.—In proposing a pilot program and before granting exemptions for purposes of a pilot program, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the regulations prescribed under this chapter or section 31136. The Secretary shall include, at a minimum, the following elements in each pilot program plan:

(A) A scheduled life of each pilot program of not more than 3 years.

(B) A specific data collection and safety analysis plan that identifies a method for comparison.

(C) A reasonable number of participants necessary to yield statistically valid findings.

(D) An oversight plan to ensure that participants comply with the terms and conditions of participation.

(E) Adequate countermeasures to protect the health and safety of study participants and the general public.

(F) A plan to inform State partners and the public about the pilot program and to identify approved participants to safety compliance and enforcement personnel and to the public.

(3) AUTHORITY TO REVOKE PARTICIPATION.—The Secretary shall immediately revoke participation in a pilot program of a motor carrier, commercial motor vehicle, or driver for failure to comply with the terms and conditions of the pilot program or if continued participation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(4) AUTHORITY TO TERMINATE PROGRAM.—The Secretary shall immediately terminate a pilot program if its continuation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(5) REPORT TO CONGRESS.—At the conclusion of each pilot program, the Secretary shall report to Congress the findings, conclusions, and recommendations of the program, including suggested amendments to laws and regulations that would enhance motor carrier, commercial motor vehicle, and driver safety and improve compliance with national safety standards.

(d) PREEMPTION OF STATE RULES.—During the time period that a waiver, exemption, or pilot program is in effect under this chapter or section 31136, no State shall enforce any law or regulation that conflicts with or is inconsistent with the waiver, exemption, or pilot program with respect to a person operating under the waiver or exemption or participating in the pilot program.

(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.

(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.

[(f)**]** *(g)* LIMITATIONS ON MUNICIPALITY AND COMMERCIAL ZONE EXEMPTIONS AND WAIVERS.—(1) The Secretary may not—

(A) exempt a person or commercial motor vehicle from a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality; or

(B) waive application to a person or commercial motor vehicle of a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality.

(2) If a person was authorized to operate a commercial motor vehicle in a municipality or commercial zone of a municipality in the United States for the entire period from November 19, 1987, through November 18, 1988, and if the person is otherwise qualified to operate a commercial motor vehicle, the person may operate a commercial motor vehicle entirely in a municipality or commercial zone of a municipality notwithstanding—

(A) paragraph (1) of this subsection;

(B) a minimum age requirement of the United States Government for operation of the vehicle; and

(C) a medical or physical condition that—

(i) would prevent an operator from operating a commercial motor vehicle under the commercial motor vehicle safety regulations in title 49, Code of Federal Regulations;

(ii) existed on July 1, 1988;

(iii) has not substantially worsened; and

(iv) does not involve alcohol or drug abuse.

(3) This subsection does not affect a State commercial motor vehicle safety law applicable to intrastate commerce.

CHAPTER 315—MOTOR CARRIER SAFETY

* * * * * * *

§ 31502. Requirements for qualifications, hours of service, safety, and equipment standards

(a) APPLICATION.—This section applies to transportation—

(1) described in sections 13501 and 13502 of this title; and

(2) to the extent the transportation is in the United States and is between places in a foreign country, or between a place in a foreign country and a place in another foreign country.

(b) MOTOR CARRIER AND PRIVATE MOTOR CARRIER REQUIREMENTS.—The Secretary of Transportation may prescribe requirements for—

(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and

(2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.

(c) MIGRANT WORKER MOTOR CARRIER REQUIREMENTS.—The Secretary may prescribe requirements for the comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment of a motor carrier of migrant workers. The requirements only apply to a carrier transporting a migrant worker—

(1) at least 75 miles; and

(2) across the boundary of a State, territory, or possession of the United States.

(d) CONSIDERATIONS.—Before prescribing or revising any requirement under this section, the Secretary shall consider the costs and benefits of the requirement.

(e) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, regulations issued under this section or section 31136 regarding—

(A) maximum driving and on-duty times applicable to operators of commercial motor vehicles,

(B) physical testing, reporting, or recordkeeping, and

(C) the installation of automatic recording devices associated with establishing the maximum driving and on-duty times referred to in subparagraph (A),

shall not apply to any driver of a utility service vehicle during an emergency period of not more than 30 days declared by an elected State or local government official under paragraph (2) in the area covered by the declaration.

(2) DECLARATION OF EMERGENCY.—An elected State or local government official or elected officials of more than one State or local government jointly may issue an emergency declaration for purposes of paragraph (1) after notice to the Field Administrator of the Federal Motor Carrier Safety Administration with jurisdiction over the area covered by the declaration.

(3) INCIDENT REPORT Within 30 days after the end of the declared emergency period the official who issued the emergency declaration shall file with the Field Administrator a report of each safety-related incident or accident that occurred during the emergency period involving—

(A) a utility service vehicle driver to which the declaration applied; or

(B) a utility service vehicle of the driver to which the declaration applied.

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

(A) DRIVER OF A UTILITY SERVICE VEHICLE.—The term "driver of a utility service vehicle" means any driver who is considered to be a driver of a utility service vehicle for purposes of section 345(a)(4) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613).

(B) UTILITY SERVICE VEHICLE.—The term "utility service vehicle" has the meaning that term has under section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat 614-615).

(f) READY MIXED CONCRETE DELIVERY VEHICLES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, regulations issued under this section or section 31136 (including section 1(e)(1)(ii) of part 395 of title 49, Code of Federal Regulations) regarding reporting, recordkeeping, or documentation of duty status, shall not apply to any driver of a ready mixed concrete delivery vehicle if—

(A) the driver operates within a 100 air-mile radius of the normal work reporting location;

(B) the driver returns to the work reporting location and is released from work within 14 consecutive hours;

(C) the driver has at least 10 consecutive hours off duty following each 14 hours on duty;

(D) the driver does not exceed 11 hours maximum driving time following 10 consecutive hours off duty; and

(E) the motor carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records that show—

(i) the time the driver reports for duty each day;

(ii) the total number of hours the driver is on duty each day;

(iii) the time the driver is released from duty each day; and

(iv) the total time for the preceding driving week the driver is used for the first time or intermittently.

(2) DEFINITION.—In this section, the term "driver of ready mixed concrete delivery vehicle" means a driver of a vehicle designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

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[Subtitle IX—[Transferred]]

[Chapter	Sec.
[701. [Transferred]	]
[703. [Transferred]	]

Subtitle IX—MULTIMODAL FREIGHT TRANSPORTATION

Chapter	*Sec.*
701. Multimodal freight policy	*70101*
702. Multimodal freight transportation planning and information	*70201*

CHAPTER 701—MULTIMODAL FREIGHT POLICY

Sec.
70101. National multimodal freight policy.
70102. National freight strategic plan.
70103. National Multimodal Freight Network.

§ 70101. National multimodal freight policy

(a) IN GENERAL.—It is the policy of the United States to maintain and improve the condition and performance of the National Multimodal Freight Network established under section 70103 to ensure that the Network provides a foundation for the United States to compete in the global economy and achieve the goals described in subsection (b).

(b) GOALS.—The goals of the national multimodal freight policy are—

(1) to identify infrastructure improvements, policies, and operational innovations that—

(A) strengthen the contribution of the National Multimodal Freight Network to the economic competitiveness of the United States;

(B) reduce congestion and eliminate bottlenecks on the National Multimodal Freight Network; and

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

(2) to improve the safety, security, efficiency, and resiliency of multimodal freight transportation;

(3) to achieve and maintain a state of good repair on the National Multimodal Freight Network;

(4) to use innovation and advanced technology to improve the safety, efficiency, and reliability of the National Multimodal Freight Network;

(5) to improve the economic efficiency of the National Multimodal Freight Network;

(6) to improve the short- and long-distance movement of goods that—

(A) travel across rural areas between population centers;

(B) travel between rural areas and population centers; and

(C) travel from the Nation's ports, airports, and gateways to the National Multimodal Freight Network;

(7) to improve the flexibility of States to support multi-State corridor planning and the creation of multi-State organizations to increase the ability of States to address multimodal freight connectivity; and

(8) to reduce the adverse environmental impacts of freight movement on the National Multimodal Freight Network.

§ 70102. National freight strategic plan

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Secretary of Transportation shall—

(1) develop a national freight strategic plan in accordance with this section; and

(2) publish the plan on the public Internet Web site of the Department of Transportation.

(b) CONTENTS.—The national freight strategic plan shall include—

(1) an assessment of the condition and performance of the National Multimodal Freight Network;

(2) forecasts of freight volumes for the succeeding 5-, 10-, and 20-year periods;

(3) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators;

(4) an identification of bottlenecks on the National Multimodal Freight Network that create significant freight congestion, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include—

(A) information from the Freight Analysis Framework of the Federal Highway Administration; and

(B) to the maximum extent practicable, an estimate of the cost of addressing each bottleneck and any operational improvements that could be implemented;

(5) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight

transportation performance, and a description of opportunities for overcoming the barriers;

(6) an identification of best practices for improving the performance of the National Multimodal Freight Network;

(7) a process for addressing multistate projects and encouraging jurisdictions to collaborate; and

(8) strategies to improve freight intermodal connectivity.

(c) UPDATES.—Not later than 5 years after the date of completion of the national freight strategic plan under subsection (a), and every 5 years thereafter, the Secretary shall update the plan and publish the updated plan on the public Internet Web site of the Department of Transportation.

(d) CONSULTATION.—The Secretary shall develop and update the national freight strategic plan in consultation with State departments of transportation, metropolitan planning organizations, and other appropriate public and private transportation stakeholders.

§ 70103. National Multimodal Freight Network

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of Transportation shall establish the National Multimodal Freight Network in accordance with this section—

(1) to focus Federal policy on the most strategic freight assets; and

(2) to assist in strategically directing resources and policies toward improved performance of the National Multimodal Freight Network.

(b) NETWORK COMPONENTS.—The National Multimodal Freight Network shall include—

(1) the National Highway Freight Network, as established under section 167 of title 23;

(2) the freight rail systems of Class I railroads, as designated by the Surface Transportation Board;

(3) the public ports of the United States that have total annual foreign and domestic trade of at least 2,000,000 short tons, as identified by the Waterborne Commerce Statistics Center of the Army Corps of Engineers, using the data from the latest year for which such data is available;

(4) the inland and intracoastal waterways of the United States, as described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804);

(5) the Great Lakes, the St. Lawrence Seaway, and coastal routes along which domestic freight is transported;

(6) the 50 airports located in the United States with the highest annual landed weight, as identified by the Federal Aviation Administration; and

(7) other strategic freight assets, including strategic intermodal facilities and freight rail lines of Class II and Class III railroads, designated by the Secretary as critical to interstate commerce.

(c) OTHER STRATEGIC FREIGHT ASSETS.—In determining network components in subsection (b), the Secretary may consider strategic freight assets identified by States, including public ports if such ports do not meet the annual tonnage threshold, for inclusion on the National Multimodal Freight Network.

(d) REDESIGNATION.—Not later than 5 years after the date of establishment of the National Multimodal Freight Network under subsection (a), and every 5 years thereafter, the Secretary shall update the National Multimodal Freight Network.

(e) CONSULTATION.—The Secretary shall establish and update the National Multimodal Freight Network in consultation with State departments of transportation and other appropriate public and private transportation stakeholders.

(f) LANDED WEIGHT DEFINED.—In this section, the term "landed weight" means the weight of an aircraft transporting only cargo in intrastate, interstate, or foreign air transportation, as such terms are defined in section 40102(a).

CHAPTER 702—MULTIMODAL FREIGHT TRANSPORTATION PLANNING AND INFORMATION

Sec.
70201. State freight advisory committees.
70202. State freight plans.
70203. Data and tools.

§ 70201. State freight advisory committees

(a) IN GENERAL.—The Secretary of Transportation 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, freight railroads, shippers, carriers, freight-related associations, third-party logistics providers, the freight industry workforce, the transportation department of the State, and local governments.

(b) ROLE OF COMMITTEE.—A freight advisory committee of a State 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 freight plan of the State described in section 70202.

§ 70202. State freight plans

(a) IN GENERAL.—Each State shall develop a freight plan that provides a comprehensive plan for the immediate and long-range planning activities and investments of the State 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 freight-related transportation investment decisions of the State;

(3) a description of how the plan will improve the ability of the State to meet the national freight goals described in section 70101;

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

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

(6) an inventory of facilities with freight mobility issues, such as truck bottlenecks, within the State, and a description of the strategies the State is employing to address those freight mobility issues.

(c) RELATIONSHIP TO STATE PLANS.—

(1) IN GENERAL.—A freight plan described in subsection (a) may be developed separately from or incorporated into the statewide transportation plans required by section 135 of title 23.

(2) UPDATES.—If the freight plan described in subsection (a) is developed separately from the State transportation improvement program, the freight plan shall be updated at least every 5 years.

§ 70203. Data and tools

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall—

(1) begin development of new tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

(A) methodologies for systematic analysis of benefits and costs;

(B) tools for ensuring that the evaluation of freight-related and other transportation projects may consider safety, economic competitiveness, environmental sustainability, and system condition in the project selection process; and

(C) other elements to assist in effective transportation planning;

(2) identify transportation-related freight travel models and model data elements to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions; and

(3) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data collection efforts, including improved methods to standardize and manage the data, that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

(b) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to develop, improve, and implement the tools and collect the data described in subsection (a).

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TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

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TITLE I—FEDERAL-AID HIGHWAYS

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Subtitle B—General Provisions

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SEC. 1216. INNOVATIVE SURFACE TRANSPORTATION FINANCING METHODS.

(a) [Omitted amendatory text]

(b) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and rehabilitating Interstate highway corridors that could not otherwise be adequately maintained or functionally improved without the collection of tolls.

(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this subsection on 3 facilities on the Interstate System. Each of such facilities shall be located in a different State.

(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, including the age, condition, and intensity of use of the facility.

(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization established under section 134 of title 23, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.

(C) An analysis demonstrating that the facility could not be maintained or improved to meet current or future needs from the State's apportionments and allocations made available by this Act (including amendments made by this Act) and from revenues for highways from any other source without toll revenues.

(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 reconstruction or rehabilitation 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 is unable to reconstruct or rehabilitate the proposed toll facility using existing apportionments;

(B) the facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls;

(C) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

(D) the State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable; **[**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**[**.**]***; and*

(F) the State has approved enabling legislation required for the project to proceed.

(5) 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.

(6) REQUIREMENTS FOR PROJECT COMPLETION.—

(A) GENERAL TERM FOR EXPIRATION OF PROVISIONAL APPLICATION.—An application provisionally approved by the Secretary under this subsection shall expire 3 years after the date on which the application was provisionally approved if the State has not—

(i) submitted a complete application to the Secretary that fully satisfies the eligibility criteria under paragraph (3) and the selection criteria under paragraph (4);

(ii) completed the environmental review and permitting process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the pilot project; and

(iii) executed a toll agreement with the Secretary.

(B) EXCEPTIONS TO EXPIRATION.—Notwithstanding subparagraph (A), the Secretary may extend the provisional approval for not more than 1 additional year if the State demonstrates material progress toward implementation of the project as evidenced by—

(i) substantial progress in completing the environmental review and permitting process for the pilot project under the National Environmental Policy Act of 1969;

(ii) funding and financing commitments for the pilot project;

(iii) expressions of support for the pilot project from State and local governments, community interests, and the public; and

(iv) submission of a facility management plan pursuant to paragraph (3)(D).

(C) CONDITIONS FOR PREVIOUSLY PROVISIONALLY APPROVED APPLICATIONS.—A State with a provisionally approved application for a pilot project as of the date of enactment of the Surface Transportation Reauthorization and Reform Act of 2015 shall have 1 year after such date of enactment to meet the requirements of subparagraph (A) or receive an extension from the Secretary under subparagraph (B), or the application will expire.

(7) DEFINITION.—In this subsection, the term "provisional approval" or "provisionally approved" means the approval by the Secretary of a partial application under this subsection, including the reservation of a slot in the pilot program.

[(6)**]** *(8)* 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.

[(7)**]** *(9)* PROGRAM TERM.—The Secretary shall conduct the pilot program under this subsection for a term to be determined by the Secretary, but not less than 10 years.

[(8)**]** *(10)* INTERSTATE SYSTEM DEFINED.—In this subsection, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.

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INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

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TITLE I—SURFACE TRANSPORTATION

Part A—Title 23 Programs

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SEC. 1105. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) the construction of the Interstate Highway System connected the major population centers of the Nation and greatly enhanced economic growth in the United States;

(2) many regions of the Nation are not now adequately served by the Interstate System or comparable highways and require further highway development in order to serve the travel and economic development needs of the region; and

(3) the development of transportation corridors is the most efficient and effective way of integrating regions and improving efficiency and safety of commerce and travel and further promoting economic development.

(b) PURPOSE.—It is the purpose of this section to identify highway corridors and evacuation routes of national significance; to include those corridors on the National Highway System; to allow the Secretary, in cooperation with the States, to prepare long-range plans and feasibility studies for these corridors; to allow the States to give priority to funding the construction of these corridors; and to provide increased funding for segments of these corridors that have been identified for construction.

(c) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—The following are high priority corridors on the National Highway System:

(1) North-South Corridor from Kansas City, Missouri, to Shreveport, Louisiana.

(2) Avenue of the Saints Corridor from St. Louis, Missouri, to St. Paul, Minnesota.

(3) East-West Transamerica Corridor commencing on the Atlantic Coast in the Hampton Roads area going westward across Virginia to the vicinity of Lynchburg, Virginia, continuing west to serve Roanoke and then to a West Virginia corridor centered around Beckley to Welch as part of the Coalfields Expressway described in section 1069(v), then to Williamson sharing a common corridor with the I–73/74 Corridor (referred to in item 12 of the table contained in subsection (f)), then to a Kentucky Corridor centered on the cities of Pikeville, Jenkins, Hazard, London, and Somerset; then, generally following the Louie B. Nunn Parkway corridor from Somerset to Columbia, to Glasgow, to I–65; then to Bowling Green, Hopkinsville, Benton, and Paducah, into Illinois, and into Missouri and exiting western Missouri and moving westward across southern Kansas.

(4) Hoosier Heartland Industrial Corridor from Lafayette, Indiana, to Toledo, Ohio.

(5)(A) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan and Sault Ste. Marie, Michigan. The Sault Ste. Marie ter-

minus shall be reached via a corridor connecting Adrian, Jackson, Lansing, Mount Pleasant, and Grayling, Michigan.

(B)(i) In the Commonwealth of Virginia, the Corridor shall generally follow—

(I) United States Route 220 from the Virginia-North Carolina border to I–581 south of Roanoke;

(II) I–581 to I–81 in the vicinity of Roanoke;

(III) I–81 to the proposed highway to demonstrate intelligent transportation systems authorized by item 29 of the table in section 1107(b) in the vicinity of Christiansburg to United States Route 460 in the vicinity of Blacksburg; and

(IV) United States Route 460 to the West Virginia State line.

(ii) In the States of West Virginia, Kentucky, and Ohio, the Corridor shall generally follow—

(I) United States Route 460 from the West Virginia State line to United States Route 52 at Bluefield, West Virginia; and

(II) United States Route 52 to United States Route 23 at Portsmouth, Ohio.

(iii) In the States of North Carolina and South Carolina, the Corridor shall generally follow—

(I) in the case of I–73—

(aa) United States Route 220 from the Virginia State line to State Route 68 in the vicinity of Greensboro;

(bb) State Route 68 to I–40;

(cc) I–40 to United States Route 220 in Greensboro;

(dd) United States Route 220 to United States Route 1 near Rockingham;

(ee) United States Route 1 to the South Carolina State line; and

(ff) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina, including a connection to Andrews following the route 41 corridor and to Camden following the U.S. Route 521 corridor; and

(II) in the case of I–74—

(aa) I–77 from Bluefield, West Virginia, to the junction of I–77 and the United States Route 52 connector in Surry County, North Carolina;

(bb) the I–77/United States Route 52 connector to United States Route 52 south of Mount Airy, North Carolina;

(cc) United States Route 52 to United States Route 311 in Winston-Salem, North Carolina;

(dd) United States Route 311 to United States Route 220 in the vicinity of Randleman, North Carolina;

(ee) United States Route 220 to United States Route 74 near Rockingham;

(ff) United States Route 74 to United States Route 76 near Whiteville;

(gg) United States Route 74/76 to the South Carolina State line in Brunswick County; and

(hh) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina.

(6) United States Route 80 Corridor from Meridian, Mississippi, to Savannah, Georgia.

(7) East-West Corridor from Memphis, Tennessee, through Huntsville, Alabama, to Atlanta, Georgia, and Chattanooga, Tennessee.

(8) Highway 412 East-West Corridor from Tulsa, Oklahoma, through Arkansas along United States Route 62/63/65 to Nashville, Tennessee.

(9) United States Route 220 and the Appalachian Thruway Corridor from Business 220 in Bedford, Pennsylvania, to the vicinity of Corning, New York, including United States Route 322 between United States Route 220 and I–80.

(10) Appalachian Regional Corridor X.

(11) Appalachian Regional Corridor V.

(12) United States Route 25E Corridor from Corbin, Kentucky, to Morristown, Tennessee, via Cumberland Gap, to include that portion of Route 58 in Virginia which lies within the Cumberland Gap Historical Park.

[(13) Raleigh-Norfolk Corridor, Raleigh, North Carolina, to Norfolk, Virginia.**]**

(13) Raleigh-Norfolk Corridor from Raleigh, North Carolina, through Rocky Mount, Williamston, and Elizabeth City, North Carolina, to Norfolk, Virginia.

(14) Heartland Expressway from Denver, Colorado, through Scottsbluff, Nebraska, to Rapid City, South Dakota as follows:

(A) In the State of Colorado, the Heartland Expressway Corridor shall generally follow—

(i) Interstate 76 from Denver to Brush; and

(ii) Colorado Highway 71 from Limon to the border between the States of Colorado and Nebraska.

(B) In the State of Nebraska, the Heartland Expressway Corridor shall generally follow—

(i) Nebraska Highway 71 from the border between the States of Colorado and Nebraska to Scottsbluff;

(ii) United States Route 26 from Scottsbluff to the intersection with State Highway L62A;

(iii) State Highway L62A from the intersection with United States Route 26 to United States Route 385 north of Bridgeport;

(iv) United States Route 385 to the border between the States of Nebraska and South Dakota; and

(v) United States Highway 26 from Scottsbluff to the border of the States of Nebraska and Wyoming.

(C) In the State of Wyoming, the Heartland Expressway Corridor shall generally follow United States Highway 26 from the border of the States of Nebraska and Wyoming to the termination at Interstate 25 at Interchange number 94.

(D) In the State of South Dakota, the Heartland Expressway Corridor shall generally follow—

(i) United States Route 385 from the border between the States of Nebraska and South Dakota to the intersection with State Highway 79; and

(ii) State Highway 79 from the intersection with United States Route 385 to Rapid City.

(15) Urban Highway Corridor along M–59 in Michigan.

(16) Economic Lifeline Corridor along I–15 and I–40 in California, Arizona, and Nevada.

(17) Route 29 Corridor from Greensboro, North Carolina, to the District of Columbia.

(18) Corridor from Sarnia, Ontario, Canada, through Port Huron, Michigan, southwesterly along Interstate Route 69 through Indianapolis, Indiana, through Evansville, Indiana, Memphis, Tennessee, Mississippi, Arkansas, Shreveport/Bossier, Louisiana, to Houston, Texas, and to the Lower Rio Grande Valley at the border between the United States and Mexico, as follows:

(A) In Michigan, the corridor shall be from Sarnia, Ontario, Canada, southwesterly along Interstate Route 94 to the Ambassador Bridge interchange in Detroit, Michigan.

(B) In Michigan and Illinois, the corridor shall be from Windsor, Ontario, Canada, through Detroit, Michigan, westerly along Interstate Route 94 to Chicago, Illinois.

(C) In Tennessee, Mississippi, Arkansas, and Louisiana, the Corridor shall—

(i) follow the alignment generally identified in the Corridor 18 Special Issues Study Final Report; and

(ii) include a connection between the Corridor east of Wilmar, Arkansas, and west of Monticello, Arkansas, to Pine Bluff, Arkansas.

(D) In the Lower Rio Grande Valley, the Corridor shall—

(i) include United States Route 77 from the Rio Grande River to Interstate Route 37 at Corpus Christi, Texas, and then to Victoria, Texas, via U.S. Route 77;

(ii) include United States Route 281 from the Rio Grande River to Interstate Route 37 and then to Victoria, Texas, via United States Route 59; **[**and**]**

(iii) include the Corpus Christi Northside Highway and Rail Corridor from the existing intersection of United States Route 77 and Interstate Route 37 to United States Route 181, including FM511 from United States Route 77 to the Port of Brownsville**[**.**]***; and*

(iv) include Texas State Highway 44 from United States Route 59 at Freer, Texas, to Texas State Highway 358.

(E) In Kentucky, the corridor shall utilize the existing Purchase Parkway from the Tennessee State line to Interstate 24, follow Interstate Route 24 to the Wendell H. Ford Western Kentucky Parkway, then utilize the existing Wendell H. Ford Western Kentucky Parkway and Edward T. Breathitt (Pennyrile) Parkway to Henderson.

(19) United States Route 395 Corridor from the United States-Canadian border to Reno, Nevada.

(20) United States Route 59 Corridor from Laredo, Texas, through Houston, Texas, to the vicinity of Texarkana, Texas.

(21) United States Route 219 Corridor from Buffalo, New York, to the intersection of Interstate Route 80.

(22) The Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California.

(23) The Interstate Route 35 Corridor from Laredo, Texas, through Oklahoma City, Oklahoma, to Wichita, Kansas, to Kansas City, Kansas/Missouri, to Des Moines, Iowa, to Minneapolis, Minnesota, to Duluth, Minnesota, including I–29 between Kansas City and the Canadian border and the connection from Wichita, Kansas, to Sioux City, Iowa, which includes I–135 from Wichita, Kansas to Salina, Kansas, United States Route 81 from Salina, Kansas, to Norfolk, Nebraska, Nebraska State Route 35 from Norfolk, Nebraska, to South Sioux City, Nebraska, and the connection to I–29 in Sioux City, Iowa.

(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.

(25) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.

(26) The CANAMEX Corridor from Nogales, Arizona, through Las Vegas, Nevada, to Salt Lake City, Utah, to Idaho Falls, Idaho, to Montana, to the Canadian Border as follows:

(A) In the State of Arizona, the CANAMEX Corridor shall generally follow—

(i) I–19 from Nogales to Tucson;

(ii) I–10 from Tucson to Phoenix; and

(iii) United States Route 93 in the vicinity of Phoenix to the Nevada Border.

(B) In the State of Nevada, the CANAMEX Corridor shall follow—

(i) United States Route 93 from the Arizona Border to Las Vegas; and

(ii) I–15 from Las Vegas to the Utah Border.

(C) From the Utah Border through Montana to the Canadian Border, the CANAMEX Corridor shall follow I–15.

(27) The Camino Real Corridor from El Paso, Texas, to Denver, Colorado, as follows:

(A) In the State of Texas, the Camino Real Corridor shall generally follow—

(i) arterials from the international ports of entry to I–10 in El Paso County; and

(ii) I–10 from El Paso County to the New Mexico border.

(B) In the State of New Mexico, the Camino Real Corridor shall generally follow—

(i) I–10 from the Texas Border to Las Cruces; and

(ii) I–25 from Las Cruces to the Colorado Border.

(C) In the State of Colorado, the Camino Real Corridor shall generally follow I–25 from the New Mexico border to Denver continuing to the Wyoming border.

(D) In the State of Wyoming, the Camino Real Corridor shall generally follow—

(i) I–25 north to join with I–90 at Buffalo; and

(ii) I–90 to the Montana border.

(E) In the State of Montana, the Camino Real Corridor shall generally follow—

(i) I–90 to Billings; and

(ii) Montana Route 3, United States Route 12, United States Route 191, United States Route 87, to I–15 at Great Falls; and

(iii) I–15 from Great Falls to the Canadian border.

(28) The Birmingham Northern Beltline beginning at I–59 in the vicinity of Trussville, Alabama, and traversing westwardly intersecting with United States Route 75, United States Route 79, and United States Route 31; continuing southwestwardly intersecting United States Route 78 and terminating at I–59 with the I–459 interchange.

(29) The Coalfields Expressway beginning at Beckley, West Virginia, to Pound, Virginia, generally following the corridor defined as State Routes 54, 97, 10, 16, and 83.

(30) Interstate Route 5 in the States of California, Oregon, and Washington, including California State Route 905 between Interstate Route 5 and the Otay Mesa Port of Entry.

(31) The Mon-Fayette Expressway and Southern Beltway in Pennsylvania and West Virginia.

(32) The Wisconsin Development Corridor from the Iowa, Illinois, and Wisconsin border near Dubuque, Iowa, to the Upper Mississippi River Basin near Eau Claire, Wisconsin, as follows:

(A) United States Route 151 from the Iowa border to Fond du Lac via Madison, Wisconsin, then United States Route 41 from Fond du Lac to Marinette via Oshkosh, Appleton, and Green Bay, Wisconsin.

(B) State Route 29 from Green Bay to I–94 via Wausau, Chippewa Falls, and Eau Claire, Wisconsin.

(C) United States Route 10 from Appleton to Marshfield, Wisconsin.

(33) The Capital Gateway Corridor following United States Route 50 from the proposed intermodal transportation center connected to and including the I–395 corridor in Washington, D.C., to the intersection of United States Route 50 with Kenilworth Avenue and the Baltimore-Washington Parkway in Maryland.

(34) The Alameda Corridor-East and Southwest Passage, California. The Alameda Corridor-East is generally described as the corridor from East Los Angeles (terminus of Alameda Corridor) through Los Angeles, Orange, San Bernardino, and Riverside Counties, to termini at Barstow in San Bernardino County and Coachella in Riverside County. The Southwest Passage shall follow I–10 from San Bernardino to the Arizona State line.

(35) Everett-Tacoma FAST Corridor.

(36) New York and Pennsylvania State Route 17 from Harriman, New York, to its intersection with I–90 in Pennsylvania.

(37) United States Route 90 from I–49 in Lafayette, Louisiana, to I–10 in New Orleans.

(38)(A) The Ports-to-Plains Corridor from Laredo, Texas, via I–27 to Denver, Colorado, shall include:

(i) In the State of Texas the Ports-to-Plains Corridor shall generally follow—

(I) I–35 from Laredo to United States Route 83 at Exit 18;

(II) United States Route 83 from Exit 18 to Carrizo Springs;

(III) United States Route 277 from Carrizo Springs to San Angelo;

(IV) United States Route 87 from San Angelo to Sterling City;

(V) From Sterling City to Lamesa, the Corridor shall follow United States Route 87 and, the Corridor shall also follow Texas Route 158 from Sterling City to I–20, then via I–20 West to Texas Route 349 and, Texas Route 349 from Midland to Lamesa;

(VI) United States Route 87 from Lamesa to Lubbock;

(VII) I–27 from Lubbock to Amarillo;

(VIII) United States Route 287 from Amarillo to Dumas; and

(IX) United States Route 287 from Dumas to the border between the States of Texas and Oklahoma, and also United States Route 87 from Dumas to the border between the States of Texas and New Mexico.

(ii) In the State of Oklahoma, the Ports-to-Plains Corridor shall generally follow United States Route 287 from the border between the States of Texas and Oklahoma to the border between the States of Oklahoma and Colorado.

(iii) In the State of Colorado, the Ports-to-Plains Corridor shall generally follow—

(I) United States Route 287 from the border between the States of Oklahoma and Colorado to Limon; and

(II) Interstate Route 70 from Limon to Denver.

(iv) In the State of New Mexico, the Ports-to-Plains Corridor shall generally follow United States Route 87 from the border between the States of Texas and New Mexico to Raton.

(B) The corridor designation contained in subclauses (I) through (VIII) of subparagraph (A)(i) shall take effect only if the Texas Transportation Commission has not designated the Ports-to-Plains Corridor in Texas by June 30, 2001.

(39) United States Route 63 from Marked Tree, Arkansas, to I–55.

(40) The Greensboro Corridor from Danville, Virginia, to Greensboro, North Carolina, along United States Route 29.

(41) The Falls-to-Falls Corridor—United States Route 53 from International Falls on the Minnesota/Canada border to Chippewa Falls, Wisconsin.

(42) The portion of Corridor V of the Appalachian development highway system from Interstate Route 55 near Batesville, Mississippi, to the intersection with Corridor X of the Appalachian development highway system near Fulton, Mississippi.

(43) The United States Route 95 Corridor from the Canadian border at Eastport, Idaho, to the Oregon State border.

(44) The Louisiana Highway 1 corridor from Grand Isle, Louisiana, along Louisiana Highway 1, to the intersection with United States Route 90.

(45) The United States Route 78 Corridor from Memphis, Tennessee, to Corridor X of the Appalachian development highway system near Fulton, Mississippi, and Corridor X of the Appalachian development highway system extending from near Fulton, Mississippi, to near Birmingham, Alabama.

(46) Interstate Route 710 between the terminus at Long Beach, California, to California State Route 60.

(47) Interstate Route 87 from the Quebec border to New York City.

(48) The Route 50 High Plains Corridor along the United States Route 50 corridor from Newton, Kansas, to Pueblo, Colorado.

(49) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.

(50) The East-West Corridor commencing in Watertown, New York, continuing northeast through New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.

(51) The SPIRIT Corridor on United States Route 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas.

(52) The route in Arkansas running south of and parallel to Arkansas State Highway 226 from the relocation of United States Route 67 to the vicinity of United States Route 49 and United States Route 63.

(53) United States Highway Route 6 from Interstate Route 70 to Interstate Route 15, Utah.

(54) The California Farm-to-Market Corridor, California State Route 99 from south of Bakersfield to Sacramento, California.

(55) In Texas, Interstate Route 20 from Interstate Route 35E in Dallas County, east to the intersection of Interstate Route 635, north to the intersection of Interstate Route 30, northeast through Texarkana to Little Rock, Arkansas, Interstate Route 40 northeast from Little Rock east to the proposed Interstate Route 69 corridor.

(56) In the State of Texas, the La Entrada al Pacifico Corridor consisting of the following highways and any portion of a highway in a corridor on 2 miles of either side of the center line of the highway:

(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude.

(B) The segment or any roadway extending from the point described by subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude.

(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20.

(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385.

(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10.

(F) United States Route 67 from Fort Stockton to Presidio, including those portions that parallel Interstate Route 10 and United States Route 90.

(57) United States Route 41 corridor between Interstate Route 94 via Interstate Route 894 and Highway 45 near Milwaukee and Interstate Route 43 near Green Bay in the State of Wisconsin.

(58) The Theodore Roosevelt Expressway from Rapid City, South Dakota, north on United States Route 85 to Williston, North Dakota, west on United States Route 2 to Culbertson, Montana, and north on Montana Highway 16 to the international border with Canada at the port of Raymond, Montana.

(59) The Central North American Trade Corridor from the border between North Dakota and South Dakota, north on United States Route 83 through Bismark and Minot, North Dakota, to the international border with Canada.

(60) The Providence Beltline Corridor beginning at Interstate Route 95 in the vicinity of Hope Valley, Rhode Island, traversing eastwardly intersecting and merging into Interstate Route 295, continuing northeastwardly along Interstate Route 95, and terminating at the Massachusetts border, and including the western bypass of Providence, Rhode Island, from Interstate Route 295 to the Massachusetts border.

(61) In the State of Missouri, the corridors consisting of the following highways:

(A) Interstate Route 70, from Interstate Route 29/35 to United States Route 61/Avenue of the Saints.

(B) Interstate Route 72/United States Route 36, from the intersection with Interstate Route 29 to United States Route 61/Avenue of the Saints.

(C) United States Route 67, from Interstate Route 55 to the Arkansas State line.

(D) United States Route 65, from United States Route 36/Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.

(E) United States Route 63, from United States Route 36 and the proposed Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.

(F) United States Route 54, from the Kansas State line to United States Route 61/Avenue of the Saints.

(62) The Georgia Developmental Highway System Corridors identified in section 32–4–22 of the Official Code of Georgia, Annotated.

(63) The Liberty Corridor, a corridor in an area encompassing very critical and significant transportation infrastructure providing regional, national, and international access through the State of New Jersey, including Interstate Routes 95, 80, 287, and 78, United States Routes 1, 9, and 46, and State Routes 3 and 17, and portways and connecting infrastructure.

(64) The corridor in an area of passage in the State of New Jersey serving significant interstate and regional traffic, lo-

cated near the cities of Camden, New Jersey, and Philadelphia, Pennsylvania, and including Interstate Route 295, State Route 42, United States Route 130, and Interstate Routes 76 and 676.

(65) The Interstate Route 95 Corridor beginning at the New York State line and continuing through Connecticut to the Rhode Island State line.

(66) The Interstate Route 91 Corridor from New Haven, Connecticut, to the Massachusetts State line.

(67) The Fairbanks-Yukon International Corridor consisting of the portion of the Alaska Highway from the international border with Canada to the Richardson Highway, and the Richardson Highway from its junction with the Alaska Highway to Fairbanks, Alaska.

[(68) The Washoe County corridor, along Interstate Route 580/United States Route 95/United States Route 95A, from Reno, Nevada, to Las Vegas, Nevada.**]**

(68) The Washoe County Corridor and the Intermountain West Corridor, which shall generally follow—

(A) for the Washoe County Corridor, along Interstate Route 580/United States Route 95/United States Route 95A from Reno, Nevada, to Las Vegas, Nevada; and

(B) for the Intermountain West Corridor, from the vicinity of Las Vegas, Nevada, north along United States Route 95 terminating at Interstate Route 80.

(69) The Cross Valley Connector connecting Interstate Route 5 and State Route 14, Santa Clarita Valley, California.

(70) The Economic Lifeline corridor, along Interstate Route 15 and Interstate Route 40, California, Arizona, and Nevada, including Interstate Route 215 South from near San Bernadino, California, to Riverside, California, and State Route 91 from Riverside, California, to the intersection with Interstate Route 15 near Corona, California.

(71) The High Desert Corridor/E–220 from Los Angeles, California, to Las Vegas, Nevada, via Palmdale and Victorville, California.

(72) The North-South corridor, along Interstate Route 49 North, from Kansas City, Missouri, to Shreveport, Louisiana.

(73) The Louisiana Highway corridor, along Louisiana Highway 1, from Grand Isle, Louisiana, to the intersection with United States Route 90.

(74) The portion of United States Route 90 from Interstate Route 49 in Lafayette, Louisiana, to Interstate Route 10 in New Orleans, Louisiana.

(75) The Louisiana 28 corridor from Fort Polk to Alexandria, Louisiana.

(76) The portion of Interstate Route 75 from Toledo, Ohio, to Cincinnati, Ohio.

(77) The portion of United States Route 24 from the Indiana/Ohio State line to Toledo, Ohio.

(78) The portion of Interstate Route 71 from Cincinnati, Ohio, to Cleveland, Ohio.

(79) Interstate Route 376 from the Pittsburgh Interchange (I/C No. 56) of the Pennsylvania Turnpike, westward on Interstate Route 279, United States Route 22, United States Route

30, and Pennsylvania Route 60, continuing past the Pittsburgh International Airport on Turnpike Route 60, to the Pennsylvania Turnpike (Interstate Route 76), Interchange 10, and continuing north on Pennsylvania Turnpike Route 60 to Interstate Route 80.

(80) The Intercounty Connector, a new east-west multimodal highway between Interstate Route 270 and Interstate Route 95/United States Route 1 in Montgomery and Prince George's Counties, Maryland.

(81) United States Route 117/Interstate Route 795 from United States Route 70 in Goldsboro, Wayne County, North Carolina, to Interstate Route 40 west of Faison, Sampson County, North Carolina.

(82) United States Route 70 from its intersection with Interstate Route 40 in Garner, Wake County, North Carolina, to the Port at Morehead City, Carteret County, North Carolina.

(83) The Sonoran Corridor along State Route 410 connecting Interstate Route 19 and Interstate Route 10 south of the Tucson International Airport.

(84) The Central Texas Corridor commencing at the logical terminus of Interstate Route 10, generally following portions of United States Route 190 eastward, passing in the vicinity Fort Hood, Killeen, Belton, Temple, Bryan, College Station, Huntsville, Livingston, and Woodville, to the logical terminus of Texas Highway 63 at the Sabine River Bridge at Burrs Crossing.

(85) Interstate Route 81 in New York from its intersection with Interstate Route 86 to the United States-Canadian border.

(d) INCLUSION ON NHS.—The Secretary shall include all corridors identified in subsection (c) on the proposed National Highway System submitted to Congress under section 103(b)(3) of title 23, United States Code.

(e) PROVISIONS APPLICABLE TO CORRIDORS.—

(1) LONG-RANGE PLAN.—The Secretary, in cooperation with the affected State or States, may prepare a long-range plan for the upgrading of each corridor to the appropriate standard for highways on the National Highway System. Each such plan may include a plan for developing the corridor and a plan for financing the development.

(2) FEASIBILITY STUDIES.—The Secretary, in cooperation with the affected State or States, may prepare feasibility and design studies, as necessary, for those corridors for which such studies have not been prepared. A feasibility study may be conducted under this subsection with respect to the corridor described in subsection (c)(2), relating to Avenue of the Saints, to determine the feasibility of an adjunct to the Avenue of the Saints serving the southern St. Louis metropolitan area and connecting with I–55 in the vicinity of Route A in Jefferson County, Missouri. A study may be conducted under this subsection to determine the feasibility of constructing a more direct limited access highway between Peoria and Chicago, Illinois. A feasibility study may be conducted under this paragraph to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana.

(3) CERTIFICATION ACCEPTANCE.—The Secretary may discharge any of his responsibilities under title 23, United States Code, relative to projects on a corridor identified under subsection (c), upon the request of a State, by accepting a certification by the State in accordance with section 117 of such title.

(4) ACCELERATION OF PROJECTS.—To the maximum extent feasible, the Secretary may use procedures for acceleration of projects in carrying out projects on corridors identified in subsection (c).

(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), *subsection (c)(13),* ⟦subsections (c)(18) and (c)(20), subsection (c)(36)⟧ *subsection (c)(18), subsection (c)(20), subparagraphs (A) and (B)(i) of subsection (c)(26), subsection (c)(36)*, subsection (c)(37), subsection (c)(40), subsection (c)(42), subsection (c)(45), subsection (c)(54), ⟦and subsection (c)(57)⟧ *subsection (c)(57), subsection (c)(68)(B), subsection (c)(81), subsection (c)(82), and subsection (c)(83)* 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 meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code, and is planned to connect to an existing Interstate System segment by the date that is 25 years after the date of enactment of the MAP–21.

(B) INTERSTATE ROUTE 376.—

(i) DESIGNATION OF INTERSTATE ROUTE 376.—

(I) IN GENERAL.—The routes referred to in subsection (c)(79), except the portion of Pennsylvania Turnpike Route 60 between Pennsylvania Turnpike Interchange 10 and Interstate Route 80, shall be designated as Interstate Route 376.

(II) SIGNS.—The State of Pennsylvania shall have jurisdiction over the highways described in subclause (I) (except Pennsylvania Turnpike Route 60) and erect signs in accordance with Interstate signing criteria that identify the routes described in subclause (I) as Interstate Route 376.

(III) ASSISTANCE FROM SECRETARY.—The Secretary shall assist the State of Pennsylvania in carrying out, not later than December 31, 2008, an activity under subclause (II) relating to Interstate Route 376 and in complying with sections 109 and 139 of title 23, United States Code.

(ii) OTHER SEGMENTS.—The segment of the route referred to in subsection (c)(79) located between the Pennsylvania Turnpike, Interchange 10, and Interstate Route 80 may be signed as Interstate Route 376

under clause (i)(II) if that segment meets the criteria under sections 109 and 139 of title 23, United States Code.

(C) ROUTES.—

(i) DESIGNATION.—The portion of the route referred to in subsection (c)(9) is designated as Interstate Route I–99. The routes referred to in subsections (c)(18) and (c)(20) shall be designated as Interstate Route I–69. A State having jurisdiction over any segment of routes referred to in subsections (c)(18) and (c)(20) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route I–69, including segments of United States Route 59 in the State of Texas. The segment identified in subsection (c)(18)(D)(i) shall be designated as Interstate Route I–69 East, and the segment identified in subsection (c)(18)(D)(ii) shall be designated as Interstate Route I–69 Central. The State of Texas shall erect signs identifying such routes as segments of future Interstate Route I–69. The portion of the route referred to in subsection (c)(36) is designated as Interstate Route I–86. The Louie B. Nunn Parkway corridor referred to in subsection (c)(3) shall be designated as Interstate Route 66. A State having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(3) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 66. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provisions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(3) for the Commonwealth, as segments of future Interstate Route 66. The Purchase Parkway corridor referred to in subsection (c)(18)(E) shall be designated as Interstate Route 69. A State having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(18) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 69. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provisions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(18) for the Commonwealth, as segments of future Interstate Route 69. The route referred to in subsection (c)(45) is designated as Interstate Route I–22. ❚The routes referred to subparagraphs (A)(iii) and (B)(i) of subsection (c)(26) are designated as Interstate Route I-11.❚ *The routes referred to in subparagraphs (A) and (B)(i) of subsection (c)(26) and in subsection (c)(68)(B) are designated as Interstate Route I–11.*

(ii) RULEMAKING TO DETERMINE FUTURE INTERSTATE SIGN ERECTION CRITERIA.—The Secretary shall conduct a rulemaking to determine the appropriate criteria for the erection of signs for future routes on the Interstate System identified in subparagraph (A). Such rulemaking shall be undertaken in consultation with States and local officials and shall be completed not later than December 31, 1998.

(D) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as part of the Interstate System by this paragraph and the mileage of such segments shall be treated in the manner described in the last 2 sentences of section 139(a) of title 23, United States Code.

(E) USE OF FUNDS.—

(i) GENERAL RULE.—Funds apportioned under section 104(b)(5)(A) of title 23, United States Code, may be used on a project to construct a portion of a route referred to in this paragraph to standards set forth in section 109(b) of such title if the State determines that the project for which the funds were originally apportioned is unreasonably delayed or no longer viable.

(ii) LIMITATION.—If funds apportioned under section 104(b)(5)(A) of title 23, United States Code, for completing a segment of the Interstate System are used on a project pursuant to this subparagraph, no interstate construction funds may be made available, after the date of the enactment of this paragraph, for construction of such segment.

(f) HIGH PRIORITY SEGMENTS.—Highway segments of the corridors referred to in subsection (c) which are described in this subsection are high priority segments eligible for assistance under this section. Subject to subsection (g)(2), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out a project on each such segment the amount listed for each such segment:

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
1.	Pennsylvania	For the segment described in item 6 of this table and up to $11,000,000 for upgrading U.S. 220 High Priority and the Appalachian Thruway Corridor between State College and I–80	50.7
2.	Alabama, Georgia, Mississippi, Tennessee	Upgrading of the East-West Corridor along Rt. 72 and up to $1,500,000 from the State of Alabama's share of the project for modification of the Keller Memorial Bridge in Decatur, Alabama, to a pedestrian structure	25.4
3.	Missouri	Improvement of North-South Corridor along Highway 71, Southwestern, MO	3.6

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
4.	Arkansas	For construction of Highway 412 from Siloam Springs to Springdale, Arkansas as part of Highway 412 East-West Corridor	34.0
5.	Arkansas	For construction of Highway 412 from Harrison to Springdale, Arkansas as part of the Highway 412 East-West Corridor	56.0
6.	Pennsylvania	To improve U.S. 220 to a 4-lane limited access highway from Bald Eagle northward to the intersection of U.S. 220 and U.S. 322	148.0
7.	S. Dakota/Nebraska	Conduct a feasibility study of expressway from Rapid City, S. Dakota to Scotts Bluff, Nebraska	0.64
8.	Alabama	Construction of Appalachian Highway Corridor X from Corridor V near Fulton, Mississippi to U.S. 31 at Birmingham, Alabama as part of Appalachian Highway X Corridor Project	59.2
9.	Alabama	For construction of a portion of Appalachian Development Corridor V from Mississippi State Line near Red Bay, Alabama to the Tennessee State Line north of Bridgeport, Alabama	25.4
10.	West Virginia	Construction of Shawnee Project from 3-Corner Junction to I–77 as part of I–73/74 Corridor project	4.5
11.	West Virginia	Widening U.S. Rt. 52 from Huntington to Williamson, W. Virginia as part of the I–73/74 Corridor project	100.0
12.	West Virginia	Replacement of U.S. Rt. 52 from Williamson, W. Virginia to I–77 as part of the I–73/74 Corridor project	14.0
13.	North Carolina/Virginia	For Upgrading I–64 and Route 17 Virginia and constructing a new highway from Rocky Mount to Elizabeth City, North Carolina as part of the Raleigh-Norfolk High Priority Corridor Improvements	17.8
14.	Arkansas	Construction of Highway 71 between Fayetteville and Alma, Arkansas as part of the North-South High Priority Corridor	100.0
15.	Arkansas/Texas	For construction of Highway 71 from Alma, Arkansas to Louisiana border	70.0
16.	Michigan	To widen a 60 mile portion of highway M–59 from MacComb County to I–96 in Howell County, Michigan	29.6
17.	South Dakota, Colorado, Nebraska	To improve the Heartland Expressway from Rapid City, South Dakota to Scotts Bluff, Nebraska	29.6

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
18.	Indiana	To construct a 4-lane highway from Lafayette to Ft. Wayne, Indiana, following existing Indiana 25 and U.S. 24	9.5
19.	Ohio/Indiana	Conduct feasibility and economic study to widen Rt. 24 from Ft. Wayne, Indiana to Toledo, Ohio as part of the Lafayette to Toledo Corridor	0.32
20.	California, Nevada, Arizona	For improvements on I–15 and I–40 in California, Nevada and Arizona ($10,500,000 of which shall be expended on the Nevada portion of the corridor, including the I–15/U.S. 95 interchange)	59.2
21.	Louisiana	To improve the North-South Corridor from Louisiana border to Shreveport, Louisiana, and up to $6,000,000 for surface transportation projects in Louisiana, including $4,500,000 for the I–10 and I–610 project in Jefferson Parish, Louisiana, in the corridor between the St. Charles Parish line and Tulane Avenue, $500,000 for noise analysis and safety abatement measures or barriers along the Lakeview section of I–610 in New Orleans, and $1,000,000 for 3 highway studies (including $250,000 for a study to widen United States Route 84/Louisiana Route 6 traversing north Louisiana, $250,000 for a study to widen Louisiana Route 42 from United States Route 61 to Louisiana Route 44 and extend to I–10 in East Ascension Parish, and $500,000 for a study to connect I–20 on both sides of the Ouachita River)	29.6
22.	Missouri, Iowa, Minnesota	For improvements for Avenue of the Saints from St. Paul, Minnesota to St. Louis, Missouri	118.0
24.	Various States	I–66 Transamerica Highway Feasibility study	1.0
25.	Kentucky, Tennessee, Virginia	To improve Cumberland Gap Tunnel and for various associated improvements as part of U.S. 25E Corridor, except that the allocation percentages under section 1105(g)(2) of this section shall not apply to this project after fiscal year 1992	72.4

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
26.	Indiana, Kentucky, Tennessee	To improve the Bloomington, Indiana, to Evansville, Indiana, segment of the Indianapolis, Indiana, to Memphis, Tennessee, high priority corridor	23.7
27.	Washington	For improvements on the Washington State portion of the U.S. 395 corridor from the U.S.-Canadian border to Reno, Nevada	54.5
28.	Virginia	Construction of a bypass of Danville, Virginia, on Route 29 Corridor	17.0
29.	Arkansas	Highway 412 from Harrison to Mt. Home	20.0
30.	New York	Improvements on Route 219 between Springville to Ellicottville in New York State	9.5

(g) PROVISIONS RELATING TO HIGH PRIORITY SEGMENTS.—

(1) DETAILED PLANS.—Each State in which a priority segment identified under subsection (f) is located may prepare a detailed plan for completion of construction of such segment and for financing such construction.

(2) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (f) for each high priority segment authorized by subsection (f) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(3) FEDERAL SHARE.—The Federal share payable on account of any project under subsection (f) shall be 80 percent of the cost thereof.

(4) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary may delegate responsibility for construction of a project or projects under subsection (f) to the State in which such project or projects are located upon request of such State.

(5) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) 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 subsection.

(6) APPLICABILITY OF TITLE 23.—Funds authorized by subsection (f) and subsection (h) 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 subsection (f) shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by subsection (f) shall not be subject to any obligation limitation.

(7) [Omitted amendatory text]

(8) SPECIAL RULE.—Amounts allocated by subsection (f) to the State of California for improvements on I–15 and I–40 shall not be subject to any State or local law relating to apportionment of funds available for the construction or improvement of highways.

(9) The States of South Dakota and Nebraska may, at their discretion, utilize funds allocated to them for the project described in section 1105(f)(17) of this Act to support the Nebraska/South Dakota feasibility study described in section 1105(f)(7) and may also utilize funds allocated for that study for the project described in section 1105(f)(17).

(h) AUTHORIZATION FOR FEASIBILITY STUDIES.—There is authorized to be appropriated to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) $8,000,000 per fiscal year for each of the fiscal years 1992 through 1997 to carry out feasibility and design studies under subsection (e)(2).

(i) REVOLVING LOAN FUND.—

(1) ESTABLISHMENT.—The Secretary may establish a Priority Corridor Revolving Loan Fund.

(2) ADVANCES.—The Secretary shall make available as repayable advances amounts from the Revolving Loan Fund to States for planning and construction of corridors listed in subsection (c). In making such amounts available, the Secretary shall give priority to segments identified in subsection (f).

(3) REPAYMENT OF ADVANCES.—The amount of an advance to a State in a fiscal year under paragraph (2) may not exceed the amount of a State's estimated apportionments for the National Highway System for the 2 succeeding fiscal years. Advances shall be repaid (A) by reducing the State's National Highway System apportionment in each of the succeeding 3 fiscal years by ⅓ of the amount of the advance, or (B) by direct repayment. Repayments shall be credited to the Priority Corridor Revolving Loan Fund.

(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, out of the Highway Trust Fund (other than the Mass Transit Account), $40,000,000 per fiscal year for each of fiscal years 1993 through 1997 to carry out this subsection.

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TITLE VI—RESEARCH

PART A—PROGRAMS, STUDIES, AND ACTIVITIES

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SEC. 6016. FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.

(a) STUDIES.—The Administrator of the Federal Highway Administration (hereinafter in this section referred to as the "Administrator") shall conduct studies of the fundamental chemical property and physical property of petroleum asphalts and modified asphalts used in highway construction in the United States. Such studies shall emphasize predicting pavement performance from the fundamental and rapidly measurable properties of asphalts and modified asphalts.

(b) CONTRACTS.—To carry out the studies under subsection (a), the Administrator shall enter into contracts with the Western Research Institute of the University of Wyoming in order to conduct the necessary technical and analytical research in coordination with existing programs which evaluate actual performance of asphalts and modified asphalts in roadways, including the Strategic Highway Research Program.

(c) ACTIVITIES OF STUDIES.—The studies under subsection (a) shall include the following activities:

(1) Fundamental composition studies.

(2) Fundamental physical and rheological property studies.

(3) Asphalt-aggregate interaction studies.

(4) Coordination of composition studies, physical and rheological property studies, and asphalt-aggregate interaction studies for the purposes of predicting pavement performance, including refinements of Strategic Highway Research Program specifications.

(d) TEST STRIP.—

(1) IMPLEMENTATION.—The Administrator, in coordination with the Western Research Institute of the University of Wyoming, shall implement a test strip for the purpose of demonstrating and evaluating the unique energy and environmental advantages of using shale oil modified asphalts under extreme climatic conditions.

(2) FUNDING.—For the purposes of construction activities related to this test strip, the Secretary and the Director of the National Park Service shall make up to $1,000,000 available from amounts made available from the authorization for parkroads and parkways.

(3) REPORT TO CONGRESS.—Not later than November 30, 1995, the Administrator shall transmit to Congress as part of a report under subsection (e) the Administrator's findings on activities conducted under this subsection, including an evaluation of the test strip implemented under this subsection and recommendations for legislation to establish a national program to support United States transportation and energy security requirements.

[(e) ANNUAL REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and on or before November 30th of each year beginning thereafter, the Administrator shall transmit to Congress a report of the progress made in implementing this section.]

(f) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall expend from administrative and research funds deducted under sec-

tion 104(a) of this title at least $3,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsection (b).

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SECTION 119 OF THE SAFETEA–LU TECHNICAL CORRECTIONS ACT OF 2008

SEC. 119. FUTURE INTERSTATE DESIGNATION

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Transportation shall designate, as a future Interstate Route 69 Spur, the Audubon Parkway [and, as a future Interstate Route 66 Spur, the Natcher Parkway in Owensboro, Kentucky] *between Henderson, Kentucky, and Owensboro, Kentucky, and, as a future Interstate Route 65 and 66 Spur, the William H. Natcher Parkway between Bowling Green, Kentucky, and Owensboro, Kentucky*. Any segment of such routes shall become part of the Interstate System (as defined in section 101 of title 23, United States Code) at such time as the Secretary determines that the segment—

(1) meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code; and

(2) connects to an existing Interstate System segment.

(b) SIGNS.—Section 103(c)(4)(B)(iv) of title 23, United States Code, shall apply to the designations under subsection (a); except that a State may install signs on the 2 parkways that are to be designated under subsection (a) indicating the approximate location of each of the future Interstate System highways.

(c) REMOVAL OF DESIGNATION.—The Secretary shall remove designation of a highway referred to in subsection (a) as a future Interstate System route if the Secretary, as of the last day of the 25-year period beginning on the date of enactment of this Act, has not made the determinations under paragraphs (1) and (2) of subsection (a) with respect to such highway.

MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999

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TITLE I—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

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SEC. 103. ADDITIONAL FUNDING FOR MOTOR CARRIER SAFETY GRANT PROGRAM.

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to carry out section 31102 of title 49, United States Code, $75,000,000 for each of fiscal years 2001 through 2003.

(b) [Omitted amendatory text]

[(c) MAINTENANCE OF EFFORT.—The Secretary may not make, from funds made available by or under this section (including any amendment made by this section), a grant to a State unless the State first enters into a binding agreement with the Secretary that provides that the total expenditures of amounts of the State and its political subdivisions (not including amounts of the United States) for the development or implementation of programs for improving motor carrier safety and enforcement of regulations, standards, and orders of the United States on commercial motor vehicle safety, hazardous materials transportation safety, and compatible State regulations, standards, and orders will be maintained at a level at least equal to the average level of such expenditures for fiscal years 1997, 1998, and 1999.]

(d) [Omitted amendatory text]

[(e) STATE COMPLIANCE WITH CDL REQUIREMENTS.—

[(1) WITHHOLDING OF ALLOCATION FOR NONCOMPLIANCE.—If a State is not in substantial compliance with each requirement of section 31311 of title 49, United States Code, the Secretary shall withhold all amounts that would be allocated, but for this paragraph, to the State from funds made available by or under this section (including any amendment made by this section).

[(2) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under paragraph (1) from any State shall remain available until June 30 of the fiscal year for which the funds are authorized to be appropriated.

[(3) ALLOCATION OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds are withheld under paragraph (1) from allocation are to remain available for allocation to a State under paragraph (2), the Secretary determines that the State is in substantial compliance with each requirement of section 31311 of title 49, United States Code, the Secretary shall allocate to the State the withheld funds.

[(4) PERIOD OF AVAILABILITY OF SUBSEQUENTLY ALLOCATED FUNDS.—Any funds allocated pursuant to paragraph (3) shall remain available for expenditure until the last day of the first fiscal year following the fiscal year in which the funds are so allocated. Sums not expended at the end of such period are released to the Secretary for reallocation.

[(5) EFFECT OF NONCOMPLIANCE.—If, on June 30 of the fiscal year in which funds are withheld from allocation under paragraph (1), the State is not substantially complying with each requirement of section 31311 of title 49, United States Code, the funds are released to the Secretary for reallocation.]

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TITLE II—COMMERCIAL MOTOR VEHICLE AND DRIVER SAFETY

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SEC. 218. BORDER STAFFING STANDARDS.

(a) DEVELOPMENT AND IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall de-

velop and implement appropriate staffing standards for Federal and State motor carrier safety inspectors in international border areas.

(b) FACTORS TO BE CONSIDERED.—In developing standards under subsection (a), the Secretary shall consider volume of traffic, hours of operation of the border facility, types of commercial motor vehicles, types of cargo, delineation of responsibility between Federal and State inspectors, and such other factors as the Secretary determines appropriate.

(c) MAINTENANCE OF EFFORT.—The standards developed and implemented under subsection (a) shall ensure that the United States and each State will not reduce its respective level of staffing of motor carrier safety inspectors in international border areas from its average level staffing for fiscal year 2000.

(d) BORDER COMMERCIAL MOTOR VEHICLE AND SAFETY ENFORCEMENT PROGRAMS.—

(1) ENFORCEMENT.—If, on October 1, 2001, and October 1 of each fiscal year thereafter, the Secretary has not ensured that the levels of staffing required by the standards developed under subsection (a) are deployed, the Secretary should designate the amount made available for allocation under [section 31104(f)(2)(B) of title 49, United States Code] *section 31104(a)(1) of title 49, United States Code*, for such fiscal year for States, local governments, and other persons for carrying out border commercial motor vehicle safety programs and enforcement activities and projects.

(2) ALLOCATION.—If the Secretary makes a designation of an amount under paragraph (1), such amount shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.

[(3) LIMITATION.—If the Secretary makes a designation pursuant to paragraph (1) for a fiscal year, the Secretary may not make a designation under section 31104(f)(2)(B) of title 49, United States Code, for such fiscal year.]

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SEC. 229. CERTAIN EXEMPTIONS.

(a) EXEMPTIONS.—

(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 *of title 49, United States Code,* 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—

(A) drivers transporting agricultural commodities 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 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 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.

(2) TRANSPORTATION AND OPERATION OF GROUND WATER WELL DRILLING RIGS.—Such regulations shall, in the case of a driver of a commercial motor vehicle who is used primarily in the transportation and operation of a ground water well drilling rig, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time. Except as required in section 395.3 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this sentence, no additional off-duty time shall be required in order to operate such vehicle.

(3) TRANSPORTATION OF CONSTRUCTION MATERIALS AND EQUIPMENT.—Such regulations shall, in the case of a driver of a commercial motor vehicle who is used primarily in the transportation of construction materials and equipment, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time.

(4) OPERATORS OF UTILITY SERVICE VEHICLES.—

(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Such regulations shall not apply to a driver of a utility service vehicle.

(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of two or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.

(5) SNOW AND ICE REMOVAL.—A State may waive the requirements of chapter 313 of title 49, United States Code, with respect to a vehicle that is being operated within the boundaries of an eligible unit of local government by an employee of such unit for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting. Such waiver authority shall only apply in a case where the employee is needed to operate the vehicle because the employee of the eligible unit of local government who ordinarily operates the vehicle and who has a commercial drivers license is unable to operate the vehicle or is in need of additional assistance due to a snow emergency.

(b) PREEMPTION.—Except as provided in subsection (a)(4), nothing contained in this section shall require the preemption of State laws and regulations concerning the safe operation of commercial motor vehicles as the result of exemptions from Federal requirements provided under this section.

(c) REVIEW BY THE SECRETARY.—The Secretary may conduct a rulemaking proceeding to determine whether granting any exemption provided by subsection (a) (other than paragraph (1), (2), or (4)) is not in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles. If, at any time as a result of such a proceeding, the Secretary determines that granting such exemption would not be in the public interest

and would have a significant adverse impact on the safety of commercial motor vehicles, the Secretary may prevent the exemption from going into effect, modify the exemption, or revoke the exemption. The Secretary may develop a program to monitor the exemption, including agreements with carriers to permit the Secretary to examine insurance information maintained by an insurer on a carrier.

(d) REPORT.—The Secretary shall monitor the commercial motor vehicle safety performance of drivers of vehicles that are subject to an exemption under this section. If the Secretary determines that public safety has been adversely affected by an exemption granted under this section, the Secretary shall report to Congress on the determination.

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

(1) 7 OR 8 CONSECUTIVE DAYS.—The term "7 or 8 consecutive days" means the period of 7 or 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

(2) 24-HOUR PERIOD.—The term "24-hour period" means any 24 consecutive hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

(3) GROUND WATER WELL DRILLING RIG.—The term "ground water well drilling rig" means any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

(4) TRANSPORTATION OF CONSTRUCTION MATERIALS AND EQUIPMENT.—The term "transportation of construction materials and equipment" means the transportation of construction and pavement materials, construction equipment, and construction maintenance vehicles, by a driver to or from an active construction site (a construction site between initial mobilization of equipment and materials to the site to the final completion of the construction project) within a 50 air mile radius of the normal work reporting location of the driver. This paragraph does not apply to the transportation of material found by the Secretary to be hazardous under section 5103 of title 49, United States Code, in a quantity requiring placarding under regulations issued to carry out such section.

(5) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—The term "eligible unit of local government" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law which has a total population of 3,000 individuals or less.

(6) UTILITY SERVICE VEHICLE.—The term "utility service vehicle" means any commercial motor vehicle—

(A) used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

(B) while engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

(C) except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

(7) AGRICULTURAL COMMODITY.—The term "agricultural commodity" means any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) and insects).

(8) FARM SUPPLIES FOR AGRICULTURAL PURPOSES.—The term "farm supplies for agricultural purposes" means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.

(f) EMERGENCY CONDITION REQUIRING IMMEDIATE RESPONSE.—

(1) PROPANE OR PIPELINE EMERGENCY.—A regulation prescribed under section 31136 or 31502 of title 49, United States Code, shall not apply to a driver of a commercial motor vehicle which is used primarily in the transportation of propane winter heating fuel or a driver of a motor vehicle used to respond to a pipeline emergency if such regulations would prevent the driver from responding to an emergency condition requiring immediate response.

(2) DEFINITION.—An emergency condition requiring immediate response is any condition that, if left unattended, is reasonably likely to result in immediate serious bodily harm, death, or substantial damage to property. In the case of propane such conditions shall include (but are not limited to) the detection of gas odor, the activation of carbon monoxide alarms, the detection of carbon monoxide poisoning, and any real or suspected damage to a propane gas system following a severe storm or flooding. An "emergency condition requiring an immediate response" does not include requests to re-fill empty gas tanks. In the case of pipelines such conditions include (but are not limited to) indication of an abnormal pressure event, leak, release or rupture.

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART D—PAY AND ALLOWANCES

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.
Deputy Secretary of State.
Deputy Secretary of State for Management and Resources.
Administrator, Agency for International Development.
Administrator of the National Aeronautics and Space Administration.
Deputy Secretary of Veterans Affairs.
Deputy Secretary of Homeland Security.
Under Secretary of Homeland Security for Management.
Deputy Secretary of the Treasury.
Deputy Secretary of Transportation.
Chairman, Nuclear Regulatory Commission.
Chairman, Council of Economic Advisers.
Director of the Office of Science and Technology.
Director of the Central Intelligence Agency.
Secretary of the Air Force.
Secretary of the Army.
Secretary of the Navy.
Administrator, Federal Aviation Administration.
Director of the National Science Foundation.
Deputy Attorney General.
Deputy Secretary of Energy.
Deputy Secretary of Agriculture.
Director of the Office of Personnel Management.
Administrator, Federal Highway Administration.
Administrator of the Environmental Protection Agency.
Under Secretary of Defense for Acquisition, Technology, and Logistics.
Deputy Secretary of Labor.
Deputy Director of the Office of Management and Budget.
Independent Members, Thrift Depositor Protection Oversight Board.
Deputy Secretary of Health and Human Services.
Deputy Secretary of the Interior.
Deputy Secretary of Education.
Deputy Secretary of Housing and Urban Development.
Deputy Director for Management, Office of Management and Budget.
Director of the Federal Housing Finance Agency.

Deputy Commissioner of Social Security, Social Security Administration.

Administrator of the Community Development Financial Institutions Fund.

Deputy Director of National Drug Control Policy.

Members, Board of Governors of the Federal Reserve System.

[The Under Secretary of Transportation for Security.]

Under Secretary of Transportation for Policy.

Chief Executive Officer, Millennium Challenge Corporation.

Principal Deputy Director of National Intelligence.

Director of the National Counterterrorism Center.

Director of the National Counter Proliferation Center.

Administrator of the Federal Emergency Management Agency.

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

Associate Administrator of the National Aeronautics and Space Administration.

Assistant Administrators, Agency for International Development (6).

Regional Assistant Administrators, Agency for International Development (4).

Assistant Secretaries of Agriculture (3).

Assistant Secretaries of Commerce (11).

Assistant Secretaries of Defense (14).

Assistant Secretaries of the Air Force (4).

Assistant Secretaries of the Army (5).

Assistant Secretaries of the Navy (4).

Assistant Secretaries of Health and Human Services (6).

Assistant Secretaries of the Interior (6).

Assistant Attorneys General (11).

Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for Veterans' Employment and Training.

Administrator, Wage and Hour Division, Department of Labor.

Assistant Secretaries of State (24) and 4 other State Department officials to be appointed by the President, by and with the advice and consent of the Senate.

Assistant Secretaries of the Treasury (10).

Members, United States International Trade Commission (5).

Assistant Secretaries of Education (10).

General Counsel, Department of Education.

Director of Civil Defense, Department of the Army.

Deputy Director of the Office of Emergency Planning.

Deputy Director of the Office of Science and Technology.

Deputy Director of the Peace Corps.

Assistant Directors of the Office of Management and Budget (3).

General Counsel of the Department of Agriculture.

General Counsel of the Department of Commerce.

General Counsel of the Department of Defense.

General Counsel of the Department of Health and Human Services.

Solicitor of the Department of the Interior.

Solicitor of the Department of Labor.

General Counsel of the National Labor Relations Board.

General Counsel of the Department of the Treasury.

First Vice President of the Export-Import Bank of Washington.

Members, Council of Economic Advisers.

Members, Board of Directors of the Export-Import Bank of Washington.

Members, Federal Communications Commission.

Member, Board of Directors of the Federal Deposit Insurance Corporation.

Directors, Federal Housing Finance Board.

Members, Federal Energy Regulatory Commission.

Members, Federal Trade Commission.

Members, Surface Transportation Board.

Members, National Labor Relations Board.

Members, Securities and Exchange Commission.

Members, Merit Systems Protection Board.

Members, Federal Maritime Commission.

Members, National Mediation Board.

Members, Railroad Retirement Board.

Director of Selective Service.

Associate Director of the Federal Bureau of Investigation, Department of Justice.

Members, Equal Employment Opportunity Commission (4).

Director, Community Relations Service.

Members, National Transportation Safety Board.

General Counsel, Department of Transportation.

Deputy Administrator, Federal Aviation Administration.

Assistant Secretaries of Transportation [(4)] *(5)*.

Deputy Federal Highway Administrator.

Administrator of the Saint Lawrence Seaway Development Corporation.

Assistant Secretary for Science, Smithsonian Institution.

Assistant Secretary for History and Art, Smithsonian Institution.

Deputy Administrator of the Small Business Administration.

Assistant Secretaries of Housing and Urban Development (8).

General Counsel of the Department of Housing and Urban Development.

Commissioner of Interama.

Federal Insurance Administrator, Federal Emergency Management Agency.

Executive Vice President, Overseas Private Investment Corporation.

Members, National Credit Union Administration Board (2).

Members, Postal Regulatory Commission (4).

Members, Occupational Safety and Health Review Commission.

Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2).

Members, Consumer Product Safety Commission (4).

Members, Commodity Futures Trading Commission.

Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.

Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.

Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.

Executive Director for Operations, Nuclear Regulatory Commission.

President, Government National Mortgage Association, Department of Housing and Urban Development.

Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.

Director, Bureau of Prisons, Department of Justice.

Assistant Secretaries of Energy (8).

General Counsel of the Department of Energy.

Administrator, Economic Regulatory Administration, Department of Energy.

Administrator, Energy Information Administration, Department of Energy.

Director, Office of Indian Energy Policy and Programs, Department of Energy.

Director, Office of Science, Department of Energy.

Assistant Secretary of Labor for Mine Safety and Health.

Members, Federal Mine Safety and Health Review Commission.

President, National Consumer Cooperative Bank.

Special Counsel of the Merit Systems Protection Board.

Chairman, Federal Labor Relations Authority.

Assistant Secretaries, Department of Homeland Security.

General Counsel, Department of Homeland Security.

Officer for Civil Rights and Civil Liberties, Department of Homeland Security.

Chief Financial Officer, Department of Homeland Security.

Chief Information Officer, Department of Homeland Security.

Deputy Director, Institute for Scientific and Technological Cooperation.

Director of the National Institute of Justice.

Director of the Bureau of Justice Statistics.

Chief Counsel for Advocacy, Small Business Administration.

Assistant Administrator for Toxic Substances, Environmental Protection Agency.

Assistant Administrator, Office of Solid Waste, Environmental Protection Agency.

Assistant Administrators, Environmental Protection Agency (8).

Director of Operational Test and Evaluation, Department of Defense.

Director of Cost Assessment and Program Evaluation, Department of Defense.

Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State.

Ambassadors at Large.

Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

Assistant Secretaries, Department of Veterans Affairs (7).

General Counsel, Department of Veterans Affairs.

Commissioner of Food and Drugs, Department of Health and Human Services

Chairman, Board of Veterans' Appeals.

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Director, United States Marshals Service.

Chairman, United States Parole Commission.

Director, Bureau of the Census, Department of Commerce.

Director of the Institute of Museum and Library Services.

Chief Financial Officer, Department of Agriculture.

Chief Financial Officer, Department of Commerce.

Chief Financial Officer, Department of Education.

Chief Financial Officer, Department of Energy.

Chief Financial Officer, Department of Health and Human Services.

Chief Financial Officer, Department of Housing and Urban Development.

Chief Financial Officer, Department of the Interior.

Chief Financial Officer, Department of Justice.

Chief Financial Officer, Department of Labor.

Chief Financial Officer, Department of State.

Chief Financial Officer, Department of Transportation.

Chief Financial Officer, Department of the Treasury.

Chief Financial Officer, Department of Veterans Affairs.

Chief Financial Officer, Environmental Protection Agency.

Chief Financial Officer, National Aeronautics and Space Administration.

Commissioner, Office of Navajo and Hopi Indian Relocation.

Principal Deputy Under Secretary of Defense for Policy.

Principal Deputy Under Secretary of Defense for Personnel and Readiness.

Principal Deputy Under Secretary of Defense (Comptroller).

Principal Deputy Under Secretary of Defense for Intelligence.

General Counsel of the Department of the Army.

General Counsel of the Department of the Navy.

General Counsel of the Department of the Air Force.

Liaison for Community and Junior Colleges, Department of Education.

Director of the Office of Educational Technology.

Director of the International Broadcasting Bureau.

The Commissioner of Labor Statistics, Department of Labor.

Administrator, Rural Utilities Service, Department of Agriculture.

Chief Information Officer, Department of Agriculture.

Chief Information Officer, Department of Commerce.

Chief Information Officer, Department of Defense (unless the official designated as the Chief Information Officer of the Department of Defense is an official listed under section 5312, 5313, or 5314 of this title).

Chief Information Officer, Department of Education.

Chief Information Officer, Department of Energy.

Chief Information Officer, Department of Health and Human Services.

Chief Information Officer, Department of Housing and Urban Development.

Chief Information Officer, Department of the Interior.

Chief Information Officer, Department of Justice.

Chief Information Officer, Department of Labor.

Chief Information Officer, Department of State.

Chief Information Officer, Department of Transportation.

Chief Information Officer, Department of the Treasury.

Chief Information Officer, Department of Veterans Affairs.

Chief Information Officer, Environmental Protection Agency.

Chief Information Officer, National Aeronautics and Space Administration.

Chief Information Officer, Agency for International Development.

Chief Information Officer, Federal Emergency Management Agency.

Chief Information Officer, General Services Administration.

Chief Information Officer, National Science Foundation.

Chief Information Officer, Nuclear Regulatory Agency.

Chief Information Officer, Office of Personnel Management.

Chief Information Officer, Small Business Administration.

Chief Information Officer of the Intelligence Community.

General Counsel of the Central Intelligence Agency.

Principal Deputy Administrator, National Nuclear Security Administration.

Additional Deputy Administrators of the National Nuclear Security Administration (3), but if the Deputy Administrator for Naval Reactors is an officer of the Navy on active duty, (2).

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

General Counsel of the Office of the Director of National Intelligence.

Chief Medical Officer, Department of Homeland Security.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Bonneville Power Administration, Department of the Interior.

Administrator of the National Capital Transportation Agency.

Associate Administrators of the Small Business Administration (4).

Associate Administrators, National Aeronautics and Space Administration (7).

Associate Deputy Administrator, National Aeronautics and Space Administration.

Deputy Associate Administrator, National Aeronautics and Space Administration.

Archivist of the United States.

Assistant Secretary of Health and Human Services for Administration.

Assistant Attorney General for Administration.

Assistant and Science Adviser to the Secretary of the Interior.

Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice.

Chairman of the Renegotiation Board.

Chairman of the Subversive Activities Control Board.

Chief Counsel for the Internal Revenue Service, Department of the Treasury.

Commissioner, Federal Acquisition Service, General Services Administration.

Director, United States Fish and Wildlife Service, Department of the Interior.

Commissioner of Indian Affairs, Department of the Interior.

Commissioners, Indian Claims Commission (5).

Commissioner, Public Buildings Service, General Services Administration.

Commissioner of Reclamation, Department of the Interior.

Commissioner of Vocational Rehabilitation, Department of Health and Human Services.

Commissioner of Welfare, Department of Health and Human Services.

Director, Bureau of Mines, Department of the Interior.

Director, Geological Survey, Department of the Interior.

Deputy Commissioner of Internal Revenue, Department of the Treasury.

Associate Director of the Federal Mediation and Conciliation Service.

Associate Director for Volunteers, Peace Corps.

Associate Director for Program Development and Operations, Peace Corps.

Assistants to the Director of the Federal Bureau of Investigation, Department of Justice (2).

Assistant Directors, Office of Emergency Planning (3).

Fiscal Assistant Secretary of the Treasury.

General Counsel of the Agency for International Development.

General Counsel of the Nuclear Regulatory Commission.

General Counsel of the National Aeronautics and Space Administration.

Manpower Administrator, Department of Labor.

Members, Renegotiation Board.

Members, Subversive Activities Control Board.
Assistant Administrator of General Services.
Director, United States Travel Service, Department of Commerce.
Assistant Director (Program Planning, Analysis and Research), Office of Economic Opportunity.
Deputy Director, National Security Agency.
Director, Bureau of Land Management, Department of the Interior.
Director, National Park Service, Department of the Interior.
National Export Expansion Coordinator, Department of Commerce.
Staff Director, Commission on Civil Rights.
Assistant Secretary for Administration, Department of Transportation.
Director, United States National Museum, Smithsonian Institution.
Director, Smithsonian Astrophysical Observatory, Smithsonian Institution.
Administrator of the Environmental Science Services Administration.
Associate Directors of the Office of Personnel Management (5).
Assistant Federal Highway Administrator.
Deputy Administrator of the National Highway Traffic Safety Administration.
Deputy Administrator of the Federal Motor Carrier Safety Administration.
Assistant Federal Motor Carrier Safety Administrator.
Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice.
Vice Presidents, Overseas Private Investment Corporation (3).
Deputy Administrator, Federal Transit Administration, Department of Transportation.
General Counsel of the Equal Employment Opportunity Commission.
Executive Director, Advisory Council on Historic Preservation.
Additional Officers, Department of Energy (14).
Additional officers, Nuclear Regulatory Commission (5).
Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.
Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.
Assistant Administrators (3), National Oceanic and Atmospheric Administration.
General Counsel, National Oceanic and Atmospheric Administration.
Members, Federal Labor Relations Authority (2) and its General Counsel.
Additional officers, Institute for Scientific and Technological Cooperation (2).
Additional officers, Office of Management and Budget (6).

[Associate Deputy Secretary, Department of Transportation.]

Chief Scientist, National Oceanic and Atmospheric Administration.

Director, Indian Health Service, Department of Health and Human Services.

Commissioners, United States Parole Commission (8).

Commissioner, Administration on Children, Youth, and Families.

* * * * * * *

DINGELL-JOHNSON SPORT FISH RESTORATION ACT

* * * * * * *

SEC. 3. To carry out the provisions of this Act for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration and Boating Trust Fund established by section 9504(a) of the Internal Revenue Code of 1986 the amounts paid, transferred, or otherwise credited to that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section. The appropriation made under the provisions of this section for each fiscal year shall continue available during succeeding fiscal years. So much of such appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the succeeding fiscal year. Any amount apportioned to any State under the provisions of this Act which is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be made available for expenditure by the Secretary of the Interior to supplement the [57 percent] *58.012 percent* of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).

SEC. 4. (a) IN GENERAL.—[For each fiscal year through 2015 and for the period beginning on October 1, 2015, and ending on October 29, 2015, the balance] *For each fiscal year through fiscal year 2021, 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] *activities under section 14(e)* shall be distributed as follows:

(1) COASTAL WETLANDS.—An amount equal to [18.5 percent] *18.673 percent* to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

(2) BOATING SAFETY.—An amount equal to [18.5 percent] *17.315 percent* to the Secretary of the department in which the Coast Guard is operating for State recreational boating safety programs under section 13107 of title 46, United States Code.

[(3) CLEAN VESSEL ACT.—An amount equal to 2.0 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

[(4) BOATING INFRASTRUCTURE.—An amount equal to 2.0 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).]

(3) BOATING INFRASTRUCTURE IMPROVEMENT.—

(A) IN GENERAL.—An amount equal to 4 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) and section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

(B) LIMITATION.—Not more than 75 percent of the amount under subparagraph (A) shall be available for projects under either of the sections referred to in subparagraph (A).

[(5)] *(4)* NATIONAL OUTREACH AND COMMUNICATIONS.—An amount equal to 2.0 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this Act. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c) of this section.

(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 fiscal year ending before October 1, 2015, and for the period beginning on October 1, 2015, and ending on October 29, 2015, the Secretary] *for each fiscal year through fiscal year 2021, 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.

(2) SET-ASIDE FOR COAST GUARD ADMINISTRATION.—

(A) IN GENERAL.—From the annual appropriation made in accordance with section 3, for each of fiscal years 2016 through 2021, the Secretary of the department in which the Coast Guard is operating may use no more than the amount specified in subparagraph (B) for the fiscal year for the purposes set forth in section 13107(c) of title 46, United States Code. 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 fiscal year 2016, $7,800,000;
(ii) for fiscal year 2017, $7,900,000;
(iii) for fiscal year 2018, $8,000,000;
(iv) for fiscal year 2019, $8,100,000;
(v) for fiscal year 2020, $8,200,000; and
(vi) for fiscal year 2021, $8,300,000.

[(2)] *(3)* PERIOD OF AVAILABILITY; APPORTIONMENT OF UNOBLIGATED AMOUNTS.—

(A) PERIOD OF AVAILABILITY.—For each fiscal year, the available amount under paragraph (1) shall remain available for obligation for use under that paragraph [until the end of the fiscal year.] *until the end of the subsequent fiscal year.*

(B) APPORTIONMENT OF UNOBLIGATED AMOUNTS.—Not later than 60 days after the end of a fiscal year, the Secretary of the Interior shall apportion among the States any of the available amount under paragraph (1) that remains unobligated at the end of the fiscal year, on the same basis and in the same manner as other amounts made available under this Act are apportioned among the States [under subsection (e)] *under subsection (c)* for the fiscal year.

(c)*(1)* The Secretary after the distribution, transfer, use and deduction under subsection (b), and after deducting amounts used for [grants under section 14 of this title] *activities under section 14(e)*, shall apportion [57 percent] *58.012 percent* of the balance of each such annual appropriation among the several States in the following manner: 40 percent in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 percent in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 percent nor more than 5 percent of the total amount apportioned. Where the apportionment to any State under this section is less than $4,500 annually, the Secretary of the Interior may allocate not more than $4,500 of said appropriation to said State to carry out the purposes of this Act when

said State certifies to the Secretary of the Interior that it has set aside not less than $1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount for said purposes.

(2) The Secretary shall deduct from the amount to be apportioned under paragraph (1) the amounts used for grants under section 14(a).

(d) So much of any sum not allocated under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this Act until the close of the succeeding fiscal year. The term fiscal year as used in this section shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of persons holding licenses to fish shall be a State's fiscal or license year.

(e) EXPENSES FOR ADMINISTRATION OF CERTAIN PROGRAMS.—

(1) IN GENERAL.—For each fiscal year, of the amounts appropriated under section 3, the Secretary of the Interior shall use only funds authorized for use under paragraphs (1), (3), (4), and (5) of subsection (a) to pay the expenses for administration incurred in carrying out the provisions of law referred to in [those subsections,] *those paragraphs,* respectively.

(2) MAXIMUM AMOUNT.—For each fiscal year, the Secretary of the Interior may use not more than $900,000 in accordance with paragraph (1).

(f) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of the department in which the Coast Guard is operating and shall be expended for State recreational boating safety programs under section 13107(a) of title 46, United States Code.

* * * * * * *

SEC. 6. (a) Any State desiring to avail itself of the benefits of this Act shall, by its State fish and game department, submit programs or projects for fish restoration in either of the following two ways:

(1) The State shall prepare and submit to the Secretary of the Interior a comprehensive fish and wildlife resource management plan which shall insure the perpetuation of these resources for the economic, scientific, and recreational enrichment of the people. Such plan shall be for a period of not less than five years and be based on projections of desires and needs of the people for a period of not less than fifteen years. It shall include provisions for updating at intervals of not more than three years and be provided in a format as may be required by the Secretary of the Interior. If the Secretary of the Interior finds that such plans conform to standards established by him and approves such plans, he may finance up to 75 per centum of the cost of implementing segments of those plans meeting the purposes of this Act from funds apportioned under this Act upon this approval of an annual agreement submitted to him.

(2) A State may elect to avail itself of the benefits of this Act by its State fish and game department submitting to the Secretary of the Interior full and detailed statements of any fish restoration and management project proposed for that State. If the Secretary of the Interior finds that such project meets with the standards set by

him and approves said project, the State fish and game department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require. If the Secretary of the interior approves the plans, specifications, and estimates for the project, he shall notify the State fish and game department and immediately set aside so much of said appropriation as represents the share of the United States payable under this Act on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost thereof.

The Secretary of the Interior shall approve only such comprehensive plans or projects as may be substantial in character and design and the expenditure of funds hereby authorized shall be applied only to such approved comprehensive fishery plan or projects and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this Act. No payment of any money apportioned under this Act shall be made on any comprehensive fishery plan or project until an agreement to participate therein shall have been submitted to and approved by the Secretary of the Interior.

(b) If the State elects to avail itself of the benefits of this Act by preparing a comprehensive fish and wildlife plan under option (1) of subsection (a) of this section, then the term "project" may be defined for the purpose of this Act as a fishery program, all other definitions notwithstanding.

(c) Administrative costs in the form of overhead or indirect costs for services provided by State central service activities outside of the State fish and game department charged against programs or projects supported by funds made available under this Act shall not exceed in any one fiscal year 3 per centum of the annual apportionment to the State.

(d) The Secretary of the Interior may enter into agreements to finance up to 75 per centum of the initial costs of the acquisition of lands or interests therein and the construction of structures or facilities [for appropriations] *from appropriations* currently available for the purposes of this Act; and to agree to finance up to 75 per centum of the remaining costs over such a period of time as the Secretary may consider necessary. The liability of the United States in any such agreement is contingent upon the continued availability of funds for the purposes of this Act.

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SEC. 8. (a) To maintain fish-restoration and management projects established under the provisions of this Act shall be the duty of the States according to their respective laws. Beginning July 1, 1953, maintenance of projects heretofore completed under the provisions of this Act may be considered as projects under this Act. Title to any real or personal property acquired by any State, and to improvements placed on State-owned lands through the use of funds paid to the State under the provisions of this Act, shall be vested in such State.

(b)(1) Each State shall allocate 15 percent of the funds apportioned to it for each fiscal year under section 4 of this Act for the payment of up to 75 per centum of the costs of the acquisition, development, renovation, or improvement of facilities (and auxiliary facilities necessary to insure the safe use of such facilities) that create, or add to, public access to the waters of the United States to

improve the suitability of such waters for recreational boating purposes. Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 15 percent in a fiscal year, provided that the total regional allocation averages 15 percent over a 5 year period.

(2) So much of the funds that are allocated by a State under paragraph (1) in any fiscal year that remained unexpended or unobligated at the close of such year are authorized to be made available for the purposes described in paragraph (1) during the succeeding four fiscal years, but any portion of such funds that remain unexpended or unobligated at the close of such period are authorized to be made available for expenditure by the Secretary of the Interior to supplement the [57 percent] *58.012 percent* of the balance of each annual appropriation to be apportioned among the States under section 4(c).

(c) Each State may use not to exceed 15 percent of the funds apportioned to it under section 4 of this Act to pay up to 75 per centum of the costs of an aquatic resource education and outreach and communications program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms. The non-Federal share of such costs may not be derived from other Federal grant programs. The Secretary shall issue not later than the one hundred and twentieth day after the effective date of this subsection such regulations as he deems advisable regarding the criteria for such programs.

(d) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—

(1) IMPLEMENTATION.—Within 1 year after the date of enactment of the Sportfishing and Boating Safety Act of 1998, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating Partnership Council, a national plan for outreach and communications.

(2) CONTENT.—The plan shall provide—

(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

(B) for the establishment of a national program.

(3) SECRETARY MAY MATCH OR FUND PROGRAMS.—Under the plan, the Secretary may obligate amounts available under subsection (a)(5) or subsection (b) of section 4 of this Act—

(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach and communications program under the plan; or

(B) to fund contracts with States or private entities to carry out such a program.

(4) REVIEW.—The plan shall be reviewed periodically, but not less frequently than once every 3 years.

(e) STATE OUTREACH AND COMMUNICATIONS PROGRAM.—Within 12 months after the completion of the national plan under subsection (d)(1), a State shall develop a plan for an outreach and communications program and submit it to the Secretary. In developing the plan, a State shall—

(1) review the national plan developed under subsection (d);

(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and

(3) establish priorities for the State outreach and communications program proposed for implementation.

(f) PUMPOUT STATIONS AND WASTE RECEPTION FACILITIES.—Amounts apportioned to States under section 4 of this Act may be used to pay not more than 75 percent of the costs of constructing, renovating, operating, or maintaining pumpout stations and waste reception facilities (as those terms are defined in the Clean Vessel Act of 1992).

(g) SURVEYS.—

(1) NATIONAL FRAMEWORK.—Within 6 months after the date of enactment of the Sportfishing and Boating Safety Act of 1998, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

(2) STATE SURVEYS.—Within 18 months after such date of enactment, each State that agrees to conduct a public boat access needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

(3) EXCEPTION.—Paragraph (2) does not apply to a State if, within 18 months after such date of enactment, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

(4) FUNDING.—A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section.

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SEC. 12. The Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture of Puerto Rico, the Mayor of the District of Columbia, the Governor of Guam, the Governor of American Samoa, the Governor of the Commonwealth of the Northern Mariana Islands, and the Governor of the Virgin Islands, in the conduct of fish restoration and management projects as defined in section 2 of this Act, upon such terms and conditions as he shall deem fair, just, and equitable, and is authorized to apportion to Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, out of money available for apportionment under this Act, such sums as he shall determine, not exceeding for Puerto Rico 1 per centum, for the District of Columbia one-third of 1 per centum, for Guam one-third of 1 per centum, for American Samoa one-third of 1 per centum, for the Commonwealth of the Northern Mariana Islands one-third of 1 per centum, and for the Virgin Islands one-third of 1 per centum of the total amount apportioned in any one year, but the Secretary shall in no event require any of said cooperating agencies to pay an amount which will exceed 25 per centum of the cost of any project. Any unexpended or unobligated balance of any apportionment made pursuant to this section shall be made

available for expenditure in Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, as the case may be, in the succeeding year, on any approved projects, and if unexpended or unobligated at the end of such year is authorized to be made available for expenditure by the Secretary of the Interior to supplement the [57 percent] *58.012 percent* of the balance of each annual appropriation to be apportioned among the States [under section 4(b)] *under section 4(c)* of this Act.

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SEC. 14. MULTISTATE CONSERVATION GRANT PROGRAM.

(a) IN GENERAL.—

(1) AMOUNT FOR GRANTS.—Not more than $3,000,000 [of each annual appropriation made in accordance with the provisions of section 3] shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.

(2) PERIOD OF AVAILABILITY; APPORTIONMENT.—

(A) PERIOD OF AVAILABILITY.—Amounts made available under paragraph (1) shall remain available for making grants only for the first fiscal year for which the amount is made available and the following fiscal year.

(B) APPORTIONMENT.—At the end of the period of availability under subparagraph (A), the Secretary of the Interior shall apportion any amounts that remain available among the States in the manner specified in section 4(c) for use by the States in the same manner as funds apportioned under section 4(c).

(b) SELECTION OF PROJECTS.—

(1) STATES OR ENTITIES TO BE BENEFITED.—A project shall not be eligible for a grant under this section unless the project will benefit—

(A) at least 26 States;

(B) a majority of the States in a region of the United States Fish and Wildlife Service; or

(C) a regional association of State fish and game departments.

(2) USE OF SUBMITTED PRIORITY LIST OF PROJECTS.—The Secretary of the Interior may make grants under this section only for projects identified on a priority list of sport fish restoration projects described in paragraph (3).

(3) PRIORITY LIST OF PROJECTS.—A priority list referred to in paragraph (2) is a priority list of sport fish restoration projects that the International Association of Fish and Wildlife Agencies—

(A) prepares through a committee comprised of the heads of State fish and game departments (or their designees), in consultation with—

(i) nongovernmental organizations that represent conservation organizations;

(ii) sportsmen organizations; and

(iii) industries that fund the sport fish restoration programs under this Act;

(B) approves by vote of a majority of the heads of State fish and game departments (or their designees); and

(C) not later than October 1 of each fiscal year, submits to the Assistant Director for Wildlife and Sport Fish Restoration Programs.

(4) PUBLICATION.—The Assistant Director for Wildlife and Sport Fish Restoration Programs shall publish in the Federal Register each priority list submitted under paragraph (3)(C).

(c) ELIGIBLE GRANTEES.—

(1) IN GENERAL.—The Secretary of the Interior may make a grant under this section only to—

(A) a State or group of States;

(B) the United States Fish and Wildlife Service, or a State or group of States, for the purpose of carrying out the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation; and

(C) subject to paragraph (2), a nongovernmental organization.

(2) NONGOVERNMENTAL ORGANIZATIONS.—

(A) IN GENERAL.—Any nongovernmental organization that applies for a grant under this section shall submit with the application to the International Association of Fish and Wildlife Agencies a certification that the organization—

(i) will not use the grant funds to fund, in whole or in part, any activity of the organization that promotes or encourages opposition to the regulated taking of fish; and

(ii) will use the grant funds in compliance with subsection (d).

(B) PENALTIES FOR CERTAIN ACTIVITIES.—Any nongovernmental organization that is found to use grant funds in violation of subparagraph (A) shall return all funds received under this section and be subject to any other applicable penalties under law.

(d) USE OF GRANTS.—A grant under this section shall not be used, in whole or in part, for an activity, project, or program that promotes or encourages opposition to the regulated taking of fish.

(e) FUNDING FOR OTHER ACTIVITIES.—**[**Of amounts made available under section 4(b) for each fiscal year—**]** *Not more than $1,200,000 of each annual appropriation made in accordance with the provisions of section 3 shall be distributed to the Secretary of the Interior for use as follows:*

(1) $200,000 shall be made available for each of—

(A) the Atlantic States Marine Fisheries Commission;

(B) the Gulf States Marine Fisheries Commission;

(C) the Pacific States Marine Fisheries Commission; and

(D) the Great Lakes Fisheries Commission**[**; and**]**.

(2) $400,000 shall be made available for the Sport Fishing and Boating Partnership Council established by the United States Fish and Wildlife Service.

(f) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any activity carried out under this section.

[SEC. 15. EXPENDITURE OF REMAINING BALANCE IN BOAT SAFETY ACCOUNT.

[Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b) of the Internal Revenue Code of 1986, shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of this section and shall be distributed as follows:

[(1) In fiscal year 2006, $28,155,000 shall be distributed—

[(A) under section 4 of this Act in the following manner:

[(i) $11,200,000 to be added to funds available under subsection (a)(2) of that section;

[(ii) $1,245,000 to be added to funds available under subsection (a)(3) of that section;

[(iii) $1,245,000 to be added to funds available under subsection (a)(4) of that section;

[(iv) $1,245,000 to be added to funds available under subsection (a)(5) of that section; and

[(v) $12,800,000 to be added to funds available under subsection (c) of that section; and

[(B) under section 14 of this Act, $420,000, to be added to funds available under subsection (a)(1) of that section.

[(2) In fiscal year 2007, $22,419,000 shall be distributed—

[(A) under section 4 of this Act in the following manner:

[(i) $8,075,000 to be added to funds available under subsection (a)(2) of that section;

[(ii) $713,000 to be added to funds available under subsection (a)(3) of that section;

[(iii) $713,000 to be added to funds available under subsection (a)(4) of that section;

[(iv) $713,000 to be added to funds available under subsection (a)(5) of that section; and

[(v) $11,925,000 to be added to funds available under subsection (c) of that section; and

[(B) under section 14 of this Act, $280,000 to be added to funds available under subsection (a)(1) of that section.

[(3) In fiscal year 2008, $17,139,000 shall be distributed—

[(A) under section 4 of this Act in the following manner:

[(i) $6,800,000 to be added to funds available under subsection (a)(2) of that section;

[(ii) $333,000 to be added to funds available under subsection (a)(3) of that section;

[(iii) $333,000 to be added to funds available under subsection (a)(4) of that section;

[(iv) $333,000 to be added to funds available under subsection (a)(5) of that section; and

[(v) $9,200,000 to be added to funds available under subsection (c) of that section; and

[(B) under section 14 of this Act, $140,000, to be added to funds available under subsection (a)(1) of that section.

[(4) In fiscal year 2009, $12,287,000 shall be distributed—

[(A) under section 4 of this Act in the following manner:

[(i) $5,100,000 to be added to funds available under subsection (a)(2) of that section;

[(ii) $48,000 to be added to funds available under subsection (a)(3) of that section;

[(iii) $48,000 to be added to funds available under subsection (a)(4) of that section;

[(iv) $48,000 to be added to funds available under subsection (a)(5) of that section; and

[(v) $6,900,000 to be added to funds available under subsection (c) of that section; and

[(B) under section 14 of this Act, $143,000, to be added to funds available under subsection (a)(1) of that section.

[(5) In fiscal year 2010, all remaining funds in the Account shall be distributed under section 4 of this Act in the following manner:

[(A) one-third to be added to funds available under subsection (a)(2) of that section; and

[(B) two-thirds to be added to funds available under subsection (c) of that section.]

SEC. [16.] *15.* SHORT TITLE.

This Act may be cited as the "Dingell-Johnson Sport Fish Restoration Act".

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TITLE 46, UNITED STATES CODE

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Subtitle II—Vessels and Seamen

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PART I—STATE BOATING SAFETY PROGRAMS

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CHAPTER 131—RECREATIONAL BOATING SAFETY

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§ 13107. Authorization of appropriations

(a)[(1) Subject to paragraph (2) and subsection (c),] *Subject to subsection (c),* the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to [the sum of (A) the amount made available from the Boat Safety Account for that fiscal year under section 15 of the Dingell-Johnson Sport Fish Restoration Act and (B)] the amount transferred to the Secretary under subsections (a)(2) and (f) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2) and (f)). The amount shall be allocated as provided under section 13104 of this title and shall be available for State recreational boating safety programs as provided under the guidelines established under subsection (b) of this section. Amounts authorized to be expended for State recreational boating safety programs shall remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have

been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditure.

[(2) The Secretary shall use not more than two 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.]

(b) The Secretary shall establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational boating safety programs may be used. Those purposes shall include—

(1) providing facilities, equipment, and supplies for boating safety education and law enforcement, including purchase, operation, maintenance, and repair;

(2) training personnel in skills related to boating safety and to the enforcement of boating safety laws and regulations;

(3) providing public boating safety education, including educational programs and lectures, to the boating community and the public school system;

(4) acquiring, constructing, or repairing public access sites used primarily by recreational boaters;

(5) conducting boating safety inspections and marine casualty investigations;

(6) establishing and maintaining emergency or search and rescue facilities, and providing emergency or search and rescue assistance;

(7) establishing and maintaining waterway markers and other appropriate aids to navigation; and

(8) providing State recreational vessel numbering and titling 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)(A) The Secretary may use amounts made available each fiscal year under section 4(b)(2) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(b)(2)) for payment of expenses of the Coast Guard for investigations, personnel, and activities directly related to—

(i) administering State recreational boating safety programs under this chapter; or

(ii) coordinating or carrying out the national recreational boating safety program under this title.

(B) Of the amounts used by the Secretary each fiscal year under subparagraph (A)—

(i) not less than $2,000,000 is available to ensure compliance with chapter 43 of this title; and

(ii) not more than $1,500,000 is available to conduct a survey of levels of recreational boating participation and related matters in the United States.

(2) [No funds] *On and after October 1, 2016, no funds* available to the Secretary under this subsection may be used to replace funding [traditionally] provided through general appropriations, nor for any purposes except those purposes authorized by this section.

(3) Amounts made available by this subsection shall remain available during the 2 succeeding fiscal years. Any amount that is unexpended or unobligated at the end of the 3-year period during which it is available shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

(4) The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.

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